



JOINT CITY COUNCIL AND  
CARLSBAD MUNICIPAL WATER DISTRICT

# Staff Report

**Meeting Date:** June 24, 2025

**To:** Mayor/President and City Council/Board of Directors

**From:** Geoff Patnoe, City Manager/Executive Manager

**Staff Contact:** Megan Powers, Senior Management Analyst  
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**Subject:** Master Agreements with Consulting Firms to Provide Professional Services

**Districts:** All

## Recommended Action

1. Adopt a City Council resolution approving 51 master agreements with consulting firms to provide professional services for an amount not to exceed \$27,900,000.
2. Adopt a Carlsbad Municipal Water District Board of Directors resolution approving 25 master agreements with consulting firms to provide professional services for an amount not to exceed \$15,100,000.

## Executive Summary

The city and the Carlsbad Municipal Water District (CMWD) maintain master agreements with consulting firms in a variety of disciplines to ensure timely access to professional services that support departmental and Capital Improvement Program projects. A master agreement acts as an umbrella for various smaller service agreements, allowing the city and the CMWD to assign tasks to qualified consulting firms. With the main terms already covered in the master agreement, as needs arise, only the specific details of each new task are negotiated.

These agreements are established with an initial term of three years, with the option to extend for up to two additional years, or portions thereof, at the discretion of the City Manager/Executive Manager. At the end of the initial term, the city evaluates whether to amend and extend the agreements or allow them to expire. This review process helps ensure continued best value to the city and the CMWD and a diverse pool of qualified consultants. The current master agreements are set to expire on Aug. 17, 2025, and Nov. 30, 2025.

Staff recommend that the City Council and the CMWD Board approve a new set of 76 master agreements with consulting firms to provide professional services to the city and the CMWD, in a total amount not to exceed \$43,000,000. The master agreements for horizontal construction management and inspection, materials testing, and vertical construction management and inspection will be effective Aug. 18, 2025, through Aug. 17, 2028, and the master agreements

for all other disciplines will be effective July 1, 2025, through June 30, 2028. These master agreements will have two additional one-year extensions or portions thereof at the discretion of the City Manager/Executive Manager, for a total term of five years each.

The total compensation amount stated in each master agreement is the amount staff have authorization to use to assign specific tasks to the vendors on an as-needed basis, with fixed rates. The actual amount spent under these agreements is also subject to annual appropriations from the City Council and the CMWD Board, as well as the City Council and the CMWD Board budgets approved for individual construction projects.

### Explanation & Analysis

The city and the CMWD currently hold 18 master agreements that expire on Aug. 17, 2025, and 49 master agreements that expire on Nov. 30, 2025. The City Council and the CMWD Board approved a total of 50 master agreements for professional services in November 2024, as the first phase of approvals for master agreements. This phased approach allows staff to balance the workload of processing agreements for the disciplines that the city and the CMWD are likely to require in the coming years.

This phase of the bidding process was conducted in two separate procurements. Staff posted one request for qualifications for 18 disciplines on the city's website on Nov. 19, 2024, and another request for qualifications for three construction-related disciplines on March 5, 2025. The first solicitation sent notifications to 1,487 registered potential firms, and the second to 1,273 firms. To encourage a more diverse pool of available consultants, each firm was limited to bidding on a maximum of three disciplines. Statements of qualifications were accepted for the first solicitation through Dec. 31, 2024, and for the second solicitation through Apr. 8, 2025.

Exhibit 3 provides a summary of the number of submissions received for each discipline. The following table shows a summary of agreements by discipline.

Discipline	Not-to-exceed amount for city agreements	Not-to-exceed amount for CMWD agreements
Climate action planning services	\$1,000,000	-
Computer-aided design services	\$1,200,000	-
Environmental/storm water services	\$1,600,000	-
Geotechnical services	\$2,500,000	\$1,000,000
Horizontal construction management and inspection	\$3,200,000	\$3,200,000
Landscape architectural services	\$3,000,000	-
Materials testing	\$2,400,000	\$2,400,000
Mechanical/electrical/plumbing engineering	\$600,000	-
Policy and sustainable materials management program implementation	\$500,000	-
Sewer condition assessment	\$800,000	-



Discipline	Not-to-exceed amount for city agreements	Not-to-exceed amount for CMWD agreements
Storm water asset management	\$400,000	-
Structural engineering	\$1,200,000	-
Surveying	\$1,500,000	\$1,000,000
Utilities hydraulic modeling	\$1,500,000	\$1,000,000
Utility locating/potholing	\$800,000	\$800,000
Vertical construction management and inspection	\$3,200,000	\$3,200,000
Wastewater engineering	\$2,000,000	-
Water and recycled water planning	-	\$500,000
Water and recycled water engineering	-	\$1,500,000
Water/wastewater asset management	\$500,000	\$500,000

The full list of agreements is provided as Exhibit 4.

### Fiscal Analysis

Each master agreement establishes an upper not-to-exceed limit for the duration of the agreement term, which if fully extended, would be five years. The consultant's rate schedules are fixed for the initial three-year term, after which the consultant may request an increase, subject to the negotiated escalator in the master agreement and approval by the city.

The actual values of the services performed under each master agreement are established on an individual project task description and fee allotment basis, or project tasks. Project tasks are authorized by city staff on an as-needed basis, and they are constrained by the availability of project funding, which is appropriated annually through regular budgeting processes. Finally, the master agreements provide a 30-day termination for convenience provision, which allows the city or the CMWD to terminate the agreement, after notice, for any reason.

### Next Steps

Upon the City Council and the CMWD Board's approvals, staff will finalize execution of the master agreements. Staff will execute project task description and fee allotments for specific project tasks as needed with firms awarded master agreements in an appropriate discipline.

As project-specific work tasks are identified, individual allotments are negotiated with the appropriate consultant based on the hourly rates established in the master agreement. Each allotment will include an exhibit that defines a detailed scope of services which corresponds to the type of work defined for each master agreement and a total cost based on the approved hourly rates.

Extensions of all master agreements will be at the discretion of the City Manager/Executive Manager and based on a satisfactory review of the consultant's performance, city or CMWD needs and availability of appropriated funds.

### Environmental Evaluation

The proposed action is not a project as defined by the California Environmental Quality Act (CEQA) under California Public Resources Code Section 21065 and CEQA Guidelines Section 15378(a) and does not require environmental review under CEQA Guidelines Section 15060(c)(2) because the action is limited to the execution of master agreements with consulting firms for professional services. The action has no potential to cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment.

### Exhibits

1. City Council resolution
2. CMWD Board resolution
3. Statements of qualifications received for each discipline
4. Selected firms by discipline and contract value

**RESOLUTION NO. 2025-152**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, APPROVING 51 MASTER AGREEMENTS WITH CONSULTING FIRMS TO PROVIDE PROFESSIONAL SERVICES FOR AN AMOUNT NOT TO EXCEED \$27,900,000

WHEREAS, the City Council of the City of Carlsbad, California has determined that securing access to a diverse pool of available consultants for professional services that facilitate timely completion of departmental and Capital Improvement Program projects is needed; and

WHEREAS, staff posted a request for qualifications, then received and reviewed statements of qualifications for professional services consistent with Carlsbad Municipal Code Section 3.28.060; and

WHEREAS, following a thorough evaluation and ranking of the statements of qualifications using a weighted scoring system, staff recommend awarding agreements to the firms determined to be most qualified and capable of providing the best value to the City of Carlsbad; and

WHEREAS, these recommendations apply to three disciplines, horizontal construction management and inspection, materials testing, and vertical construction management and inspection, for the term of Aug. 18, 2025, through Aug. 17, 2028, and to all other disciplines for the term of July 1, 2025, through June 30, 2028; and

WHEREAS, each agreement will have an initial term of three years, with the option of up to two additional one-year extensions, or portions thereof, at the discretion of the City Manager; and

WHEREAS, the recommended firms are:

1. Climate action planning services, Ascent Environmental, Inc. (Attachment A)
2. Climate action planning services, University of San Diego (Attachment B)
3. Computer-aided design services, Fusion Engineering and Technology (Attachment C)
4. Computer-aided design services, Michael Baker International, Inc. (Attachment D)
5. Computer-aided design services, NV5, Inc. (Attachment E)
6. Environmental/storm water services, D-Max Engineering, Inc. (Attachment F)
7. Environmental/storm water services, Mikhail Ogawa Engineering, Inc. (Attachment G)
8. Environmental/storm water services, NV5, Inc. (Attachment H)
9. Geotechnical services, Atlas Technical Consultants, LLC (Attachment I)
10. Geotechnical services, ENGEO, Incorporated (Attachment J)
11. Geotechnical services, Ninyo & Moore Geotechnical & Environmental Sciences Consultants (Attachment K)
12. Geotechnical services, Barnett Quality Control Services, Inc. dba NOVA Services, Inc. (Attachment L)
13. Geotechnical services, Tetra Tech, Inc. (Attachment M)
14. Horizontal construction management and inspection, Arcadis U.S., Inc. (Attachment N)

15. Horizontal construction management and inspection, CPM Partners, Inc. (Attachment O)
16. Horizontal construction management and inspection, Kleinfelder Construction Services, Inc. (Attachment P)
17. Horizontal construction management and inspection, Valley CM, Inc. dba Valley Construction Management (Attachment Q)
18. Landscape architectural services, Moore Iacofano Goltsman, Incorporated (Attachment R)
19. Landscape architectural services, Schmidt Design Group, Inc. (Attachment S)
20. Landscape architectural services, SmithGroup, Inc. which will do business in California as SmithGroup Architects and Engineers (Attachment T)
21. Landscape architectural services, SWA Group (Attachment U)
22. Materials testing, Atlas Technical Consultants, LLC (Attachment V)
23. Materials testing, Ninyo & Moore Geotechnical & Environmental Sciences Consultants (Attachment W)
24. Materials testing, NV5, Inc. (Attachment X)
25. Materials testing, Verdantas, Inc. (Attachment Y)
26. Mechanical/electrical/plumbing engineering, IDS Group, Inc. (Attachment Z)
27. Mechanical/electrical/plumbing engineering, BSE Engineering, Inc. (Attachment AA)
28. Mechanical/electrical/plumbing engineering, Shadpour Consulting Engineers, LP (Attachment AB)
29. Policy and sustainable materials management program implementation, Stearns, Conrad and Schmidt, Consulting Engineers, Inc. (Attachment AC)
30. Sewer condition assessment, Downstream Services, Inc. (Attachment AD)
31. Sewer condition assessment, National Plant Services, Inc. (Attachment AE)
32. Storm water asset management, Glenn A. Rick Engineering and Development Co. (Attachment AF)
33. Structural engineering, Dokken Engineering (Attachment AG)
34. Structural engineering, IDS Group, Inc. (Attachment AH)
35. Surveying, Right-of-Way Engineering Services, Inc. (Attachment AI)
36. Surveying, O'Day Consultants, Inc. (Attachment AJ)
37. Surveying, NV5, Inc. (Attachment AK)
38. Utilities hydraulic modeling, Burns & McDonnell Western Enterprises, Inc. (Attachment AL)
39. Utilities hydraulic modeling, HDR Engineering, Inc. (Attachment AM)
40. Utilities hydraulic modeling, Kennedy/Jenks Consultants, Inc. (Attachment AN)
41. Utility locating/potholing, AirX Utility Surveyors, Inc. (Attachment AO)
42. Utility locating/potholing, GUIDA (Attachment AP)
43. Vertical construction management and inspection, CPM Partners, Inc. (Attachment AQ)
44. Vertical construction management and inspection, New City Consulting, Inc. (Attachment AR)
45. Vertical construction management and inspection, Schneider CM, Inc. (Attachment AS)
46. Vertical construction management and inspection, WSP USA, Inc. (Attachment AT)
47. Wastewater engineering, Carollo Engineers, Inc. (Attachment AU)
48. Wastewater engineering, Dokken Engineering (Attachment AV)
49. Wastewater engineering, Dudek (Attachment AW)
50. Wastewater engineering, Michael K. Nunley & Associates, Inc. (Attachment AX)
51. Water/wastewater asset management, HDR Engineering, Inc. (Attachment AY)

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Carlsbad, California, as follows:

1. That the above recitations are true and correct.
2. That the City Council has determined that the proposed action is not a project as defined by California Environmental Quality Act (CEQA) under California Public Resources Code Section 21065 and CEQA Guidelines Section 15378(a) and does not require environmental review under CEQA Guidelines Section 15060(c)(2) because the action is limited to the execution of master agreements with consulting firms for professional services. The action has no potential to cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment.
3. That the attached 51 master agreements are approved in a total amount not to exceed \$27,900,000.
4. That the Mayor is authorized and directed to execute the attached 51 master agreements (Attachments A through AY) for professional services on behalf of the City of Carlsbad.
5. That the City Manager, or designee, is authorized to sign, on behalf of the City of Carlsbad, future project task descriptions and fee allotments issued under these master agreements.
6. That the City Manager is further authorized to execute amendments to extend the agreements for up to two additional one-year periods, or portions thereof.

PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of Carlsbad on the 24th day of June, 2025, by the following vote, to wit:

AYES: Blackburn, Bhat-Patel, Acosta, Burkholder, Shin.

NAYS: None.

ABSTAIN: None.

ABSENT: None.

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KEITH BLACKBURN, Mayor

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SHERRY FREISINGER, City Clerk  
(SEAL)



**MASTER AGREEMENT FOR  
CLIMATE ACTION PLANNING SERVICES  
ASCENT ENVIRONMENTAL, INC.**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of June, 2025, but effective July, 1, 2025, by and between the City of Carlsbad, California, a municipal corporation, ("City"), and Ascent Environmental, Inc., a California corporation ("Contractor").

**RECITALS**

- A. City requires the professional services of a consultant that is experienced in climate action planning services.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to climate action planning.
- D. Contractor has submitted a proposal to the city responsive to Request for Qualifications RFQ25-3437CA and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, City and Contractor agree as follows:

**1. SCOPE OF WORK**

City retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A", which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective for a period of three (3) years from July 1, 2025, through June 30, 2028. The City Manager may amend the Agreement to extend it for two (2) additional one (1) year(s) periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, City needs, and appropriation of funds by the City Council. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by City and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the City Manager or the Division Director ("Director") as authorized by the City Manager. The City Manager or Director will give allowance for

documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight on the part of Contractor, or delays caused by City inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed five hundred thousand dollars (\$500,000). Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, City shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for City, the City Manager or Director, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

If the City elects to extend the term of the Master Services Agreement, adjustments to the rate schedule may be permitted. Upon receipt of a written request from the Contractor, the City may consider approving a rate schedule increase. Rate schedule increases will be considered for each anniversary of the Agreement effective date after the initial three-year term. An increase to the rate schedule will be calculated based on the proceeding 12-month percentage change in the Consumer Price Index, San Diego Area, for All Urban Customers (CPI-U), as reported by the Bureau of Labor Statistics or 5.0%, whichever is lower. If the CPI-U is a negative number, then the rate schedule will not be adjusted for that year. The Contractor must submit a request and justification to increase the rate schedule at least sixty days prior to the anniversary of the effective date, assuming the City opt to extend the Master Services Agreement. The justification accompanying the written request should detail the rationale for the requested adjustment, and the requested adjustment amount, supported by relevant documentation (e.g., CPI-U or 5.0%, whichever is less). Approval of rate schedule increase by the City must be documented in an amendment to the Agreement.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California

Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize the Owner's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. The Contractor is required to create a free web-based Procore user account(s) and utilize web-based training / tutorials (as needed) to become familiar with the system. Unless the Engineer approves otherwise, the Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. The Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of the Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that the Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, RFIs, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

## **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of City. Contractor will be under control of City only as to the result to be accomplished, but will consult with City as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of City for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. City will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. City will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify City within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which City may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At the City's election, City may deduct the indemnification amount from any balance owing to Contractor.

**9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

**10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of City. If Contractor subcontracts any of the Services, Contractor will be fully responsible to City for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and City. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by City.

**11. OTHER CONTRACTORS**

The City reserves the right to employ other Contractors in connection with the Services.

**12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by the City), indemnify, and hold harmless the City and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation program is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

**13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current

Best's Key Rating of not less than "A-:VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

13.1 Coverages and Limits. Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability (CGL) Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to City's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 The City will be named as an additional insured on Commercial General Liability which shall provide primary coverage to the City.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to City sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to City's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to City.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then City will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by City to obtain or maintain insurance and City may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. City reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

14. **BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

15. **ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

16. **OWNERSHIP OF DOCUMENTS**

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of City. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to City. Contractor will have the right to make one (1) copy of the work product for Contractor's records.

17. **COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in City and Contractor relinquishes all claims to the copyrights in favor of City.

18. **NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of City and on behalf of Contractor under this Agreement are:

<u>For City:</u>	
Name	<u>Eleida Felix Yackel</u>
Title	<u>Senior Contract Administrator</u>
Dept	<u>Public Works/ Contract Admin</u>
	<u>CITY OF CARLSBAD</u>
Address	<u>1635 Faraday Ave.</u>
	<u>Carlsbad, CA 92008</u>

<u>For Contractor:</u>	
Name	<u>Gary Jakobs</u>
Title	<u>President</u>
Address	<u>455 Capitol Mall, Suite 300</u>
	<u>Sacramento, CA 95818</u>
Phone	<u>916-930-3182</u>
Email	<u>gary.jakobs@ascent.inc</u>



Phone 442-339-2767

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

**19. GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or City will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, City may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If City decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, City may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by City and all work in progress to City at the address contained in this Agreement. City will make a determination of fact based upon the work product delivered to City and of the percentage of work that Contractor has performed which is

usable and of worth to City in having the Agreement completed. Based upon that finding City will determine the final payment of the Agreement.

City may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to City. In the event of termination of this Agreement by either party and upon request of City, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to City. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. City will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, City will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any Agreement claim submitted to City must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to City, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If City seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon City and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of City, which shall not be unreasonably withheld.

**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the City and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract, and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}

CONTRACTOR  
ASCENT ENVIRONMENTAL, INC., a  
California corporation

CITY OF CARLSBAD, a municipal  
corporation of the State of California

By:

Gary Jakobs

(sign here)

By:

Keith Blackburn, Mayor

Gary D. Jakobs, President

(print name/title)

ATTEST:

SHERRY FREISINGER, City Clerk

By:

Amanda K. Olekszulín

(sign here)

By:

Faviola Medina,  
Director of Constituent & Clerk Services

Amanda K. Olekszulín, CFO

(print name/title)

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

**Group A**  
Chairman,  
President, **or**  
Vice-President

**Group B**  
Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, City Attorney

BY: Cindie K. McMahon

**EXHIBIT A****SCOPE OF SERVICES AND FEES**

Perform a variety of tasks related to climate action planning, as outlined in the individual Project Task Descriptions and Fee Allotments (PTD&FA), including but not limited to the following:

- A. Preparation of periodic greenhouse gas (GHG) emissions inventories to support monitoring implementation progress of the CAP Update.
- B. Public outreach, leading trainings, and stakeholder engagement related to implementation of the CAP Update measures, actions, and supportive actions.
- C. Research, analysis, and assistance with program design and development for implementation of new and expanded measures in the CAP Update.
- D. Tracking and oversight of implementation actions and supporting actions for the CAP Update, as needed and by measure.
- E. Preparation of climate equity analyses.
- F. Technical analysis related to future updates to the Climate Action Plan (CAP), including emissions projections, setting reduction targets, data analysis, policy recommendations, measure development, cost analyses, equity considerations, and state and federal environmental regulations.
- G. Research and analysis of emerging regulatory, policy, or data issues related to climate change and its potential impact to the CAP Update.
- H. Attendance at commission and City Council meetings for items related to the CAP Update, as needed.

Requests for work not listed above must be contracted under separate agreement

**ATTACHMENT B – MASTER SERVICES AGREEMENT RATE SCHEDULE**

Prices valid through Term of Agreement

<b><u>STAFF</u></b>			
	<b><u>NAME</u></b>	<b><u>TITLE</u></b>	<b><u>HOURLY RATE</u></b>
1.	Poonam Boparai	Principal-in-Charge	\$350.00
2.	Hannah Kornfeld, AICP	Project Director	\$240.00
3.	Claire Moss	Project Manager	\$210.00
3.	Andrew Beecher	Senior Climate Planner	\$190.00
4.	Brenda Hom	Senior Climate Action Specialist	\$215.00
5.	John Steponick	Climate Adaptation Analyst	\$160.00
6.	Natalie Kataoka	Climate Action Analyst	\$140.00
7.	Luis Montes	Outreach Specialist	\$170.00
8.	Michele Mattei	Senior Publishing Specialist	\$165.00
9.	Riley Smith	Publishing Specialist	\$140.00
10.	Corey Alling	Graphics Specialist	\$140.00

<b><u>SUB-CONSULTANTS</u></b>			
	<b><u>NAME/FIRM</u></b>	<b><u>TITLE</u></b>	<b><u>HOURLY RATE</u></b>
1.	N/A		

<b><u>EXPENSES</u></b>			
	<b><u>DESCRIPTION</u></b>	<b><u>COST</u></b>	<b><u>% MARKUP</u></b>
1.	Automobile Mileage	\$0.67/mile	0%
2.	Reproduction: 8½" by 11"	\$0.07/page (black and white); \$0.26/page (color)	5%
3.	Reproduction: 11" by 17"	\$0.14/page B&W; \$0.52/page color	5%
4.	Reproduction: CDs	\$10/disc	5%
5.	Lodging and/or Per Diem	Government rates or as negotiated	0%
6.	Other Direct Costs	As incurred	5%



**MASTER AGREEMENT FOR  
CLIMATE ACTION PLANNING SERVICES  
UNIVERSITY OF SAN DIEGO**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of June, 2025, but effective July 1, 2025, by and between the City of Carlsbad, California, a municipal corporation, ("City"), and University of San Diego, a 501 (C)(3) non-profit organization ("Contractor").

**RECITALS**

- A. City requires the professional services of a consultant that is experienced in climate action planning services.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to climate action planning.
- D. Contractor has submitted a proposal to the city responsive to Request for Qualifications RFQ25-3437CA and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, City and Contractor agree as follows:

**1. SCOPE OF WORK**

City retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A", which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective for a period of three (3) years from July 1, 2025, through June 30, 2028. The City Manager may amend the Agreement to extend it for two (2) additional one (1) year(s) periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, City needs, and appropriation of funds by the City Council. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by City and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the City Manager or the Division Director ("Director") as authorized by the City Manager. The City Manager or Director will give allowance for

documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight on the part of Contractor, or delays caused by City inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed five hundred thousand dollars (\$500,000). Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, City shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for City, the City Manager or Director, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

If the City elects to extend the term of the Master Services Agreement, adjustments to the rate schedule may be permitted. Upon receipt of a written request from the Contractor, the City may consider approving a rate schedule increase. Rate schedule increases will be considered for each anniversary of the Agreement effective date after the initial three-year term. An increase to the rate schedule will be calculated based on the proceeding 12-month percentage change in the Consumer Price Index, San Diego Area, for All Urban Customers (CPI-U), as reported by the Bureau of Labor Statistics or 5.0%, whichever is lower. If the CPI-U is a negative number, then the rate schedule will not be adjusted for that year. The Contractor must submit a request and justification to increase the rate schedule at least sixty days prior to the anniversary of the effective date, assuming the City opt to extend the Master Services Agreement. The justification accompanying the written request should detail the rationale for the requested adjustment, and the requested adjustment amount, supported by relevant documentation (e.g., CPI-U or 5.0%, whichever is less). Approval of rate schedule increase by the City must be documented in an amendment to the Agreement.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California

Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize the Owner's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. The Contractor is required to create a free web-based Procore user account(s) and utilize web-based training / tutorials (as needed) to become familiar with the system. Unless the Engineer approves otherwise, the Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. The Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of the Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that the Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, RFIs, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

## **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of City. Contractor will be under control of City only as to the result to be accomplished, but will consult with City as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of City for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. City will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. City will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify City within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which City may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At the City's election, City may deduct the indemnification amount from any balance owing to Contractor.

**9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

**10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of City. If Contractor subcontracts any of the Services, Contractor will be fully responsible to City for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and City. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by City.

**11. OTHER CONTRACTORS**

The City reserves the right to employ other Contractors in connection with the Services.

**12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by the City), indemnify, and hold harmless the City and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation program is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

**13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current

Best's Key Rating of not less than "A-:VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

13.1 Coverages and Limits. Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability (CGL) Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to City's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 The City will be named as an additional insured on Commercial General Liability which shall provide primary coverage to the City.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to City sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to City's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to City.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then City will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by City to obtain or maintain insurance and City may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. City reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

**14. BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

**15. ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

**16. OWNERSHIP OF DOCUMENTS**

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of City. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to City. Contractor will have the right to make one (1) copy of the work product for Contractor's records.

**17. COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in City and Contractor relinquishes all claims to the copyrights in favor of City.

**18. NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of City and on behalf of Contractor under this Agreement are:

<u>For City:</u>	
Name	<u>Eleida Felix Yackel</u>
Title	<u>Senior Contract Administrator</u>
Dept	<u>Public Works/ Contract Admin</u>
	<u>CITY OF CARLSBAD</u>
Address	<u>1635 Faraday Ave.</u>
	<u>Carlsbad, CA 92008</u>

<u>For Contractor:</u>	
Name	<u>Scott Anders</u>
Title	<u>Project Manager</u>
Address	<u>5998 Alcala Park</u>
	<u>SAN DIEGO, CA 92110</u>
Phone	<u>619-260-4589</u>
Email	<u>scottanders@sandiego.edu</u>



Phone 442-339-2767

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If a dispute should arise regarding the performance of the Services the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or City will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, City may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If City decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, City may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by City and all work in progress to City at the address contained in this Agreement. City will make a determination of fact based upon the work product delivered to City and of the percentage of work that Contractor has performed which is

usable and of worth to City in having the Agreement completed. Based upon that finding City will determine the final payment of the Agreement.

City may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to City. In the event of termination of this Agreement by either party and upon request of City, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to City. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. City will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, City will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any Agreement claim submitted to City must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to City, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If City seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon City and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of City, which shall not be unreasonably withheld.

**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the City and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract, and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}

CONTRACTOR  
UNIVERSITY OF SAN DIEGO, a 501 (C)(3)  
non-profit organization

CITY OF CARLSBAD, a municipal  
corporation of the State of California

By:

Austin Choi Fitzpatrick

(sign here)

By:

Keith Blackburn, Mayor

Austin Choi-Fitzpatrick, PhD,  
Associate Provost for Academic Strategy and Growth  
(print name/title)

ATTEST:

SHERRY FREISINGER, City Clerk

By:

Kathryn R. Roig, Vice President of Finance

(sign here)

By:

Faviola Medina,  
Director of Constituent & Clerk Services

Kathryn R. Roig,  
Vice President for Finance and Chief Financial Officer  
(print name/title)

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation,  
Agreement must be signed by one corporate officer from each of the following two groups:

**Group A**  
Chairman,  
President, **or**  
Vice-President

**Group B**  
Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, City Attorney

BY:

Cindie K. McMahon

**EXHIBIT A****SCOPE OF SERVICES AND FEES**

Perform a variety of tasks related to climate action planning, as outlined in the individual Project Task Descriptions and Fee Allotments (PTD&FA), including but not limited to the following:

- A. Preparation of periodic greenhouse gas (GHG) emissions inventories to support monitoring implementation progress of the CAP Update.
- B. Public outreach, leading trainings, and stakeholder engagement related to implementation of the CAP Update measures, actions, and supportive actions.
- C. Research, analysis, and assistance with program design and development for implementation of new and expanded measures in the CAP Update.
- D. Tracking and oversight of implementation actions and supporting actions for the CAP Update, as needed and by measure.
- E. Preparation of climate equity analyses.
- F. Technical analysis related to future updates to the Climate Action Plan (CAP), including emissions projections, setting reduction targets, data analysis, policy recommendations, measure development, cost analyses, equity considerations, and state and federal environmental regulations.
- G. Research and analysis of emerging regulatory, policy, or data issues related to climate change and its potential impact to the CAP Update.
- H. Attendance at commission and City Council meetings for items related to the CAP Update, as needed.

Requests for work not listed above must be contracted under separate agreement

## Fee Schedule

Table 1 provides hourly rates for EPIC personnel and other expenses. Note there are no subcontractors on this project.

**Table 1 Hourly Rates for EPIC Personnel**

<b>STAFF</b>		
<b>Name</b>	<b>Title</b>	<b>Hourly Rate</b>
Scott Anders	Director	\$149.94
Joseph Kaatz	Senior Staff Attorney	\$103.98
Yichao Gu	Senior Policy Analyst	\$90.27
Katie Gonzalez	Communications Director	\$82.86
Xiaodan Chen	Technical Policy Analyst II	\$77.06
Naomi Wentworth	Technical Policy Analyst II	\$77.03

<b>SUBCONSULTANTS</b>		
<b>Name/Firm</b>	<b>Title</b>	<b>Hourly Rate</b>
N/A	N/A	N/A

<b>EXPENSES</b>		
<b>Description</b>	<b>Cost</b>	<b>% Markup</b>
Mileage	\$0.67	0%

## MASTER AGREEMENT FOR COMPUTER-AIDED DESIGN (CAD) SERVICES FUSION ENGINEERING AND TECHNOLOGY

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of June, 2025, but effective July 1, 2025, by and between the City of Carlsbad, California, a municipal corporation, ("City"), and Fusion Engineering and Technology, a California corporation ("Contractor").

### RECITALS

- A. The City requires the professional services of a consultant with experience in providing computer-aided design (CAD) services.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. The Contractor possesses the necessary experience to provide professional services and guidance related to computer-aided design (CAD).
- D. Contractor has submitted a proposal to the city responsive to Request for Qualifications RFQ25-3437CA and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, City and Contractor agree as follows:

### **1. SCOPE OF WORK**

City retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A", which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

### **2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

### **3. TERM**

The term of this Agreement will be effective for a period of three (3) years from July 1, 2025, through June 30, 2028. The City Manager may amend the Agreement to extend it for two (2) additional one (1) year(s) periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, City needs, and appropriation of funds by the City Council. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

### **4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by City and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the City Manager or the Division Director ("Director") as authorized by the City Manager. The City Manager or Director will give allowance for documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight

on the part of Contractor, or delays caused by City inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed four hundred thousand dollars (\$400,000). Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, City shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for City, the City Manager or Director, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

If the City elects to extend the term of the Master Services Agreement, adjustments to the rate schedule may be permitted. Upon receipt of a written request from the Contractor, the City may consider approving a rate schedule increase. Rate schedule increases will be considered for each anniversary of the Agreement effective date after the initial three-year term. An increase to the rate schedule will be calculated based on the proceeding 12-month percentage change in the Consumer Price Index, San Diego Area, for All Urban Customers (CPI-U), as reported by the Bureau of Labor Statistics or 5.0%, whichever is lower. If the CPI-U is a negative number, then the rate schedule will not be adjusted for that year. The Contractor must submit a request and justification to increase the rate schedule at least sixty days prior to the anniversary of the effective date, assuming the City opt to extend the Master Services Agreement. The justification accompanying the written request should detail the rationale for the requested adjustment, and the requested adjustment amount, supported by relevant documentation (e.g., CPI-U or 5.0%, whichever is less). Approval of rate schedule increase by the City must be documented in an amendment to the Agreement.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in



the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize the Owner's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. The Contractor is required to create a free web-based Procore user account(s) and utilize web-based training / tutorials (as needed) to become familiar with the system. Unless the Engineer approves otherwise, the Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. The Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of the Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that the Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, RFIs, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

## **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of City. Contractor will be under control of City only as to the result to be accomplished, but will consult with City as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of City for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. City will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. City will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify City within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which City may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At the City's election, City may deduct the indemnification amount from any balance owing to Contractor.

**9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

**10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of City. If Contractor subcontracts any of the Services, Contractor will be fully responsible to City for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and City. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by City.

**11. OTHER CONTRACTORS**

The City reserves the right to employ other Contractors in connection with the Services.

**12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by the City), indemnify, and hold harmless the City and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation program is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

**13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current

Best's Key Rating of not less than "A-VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

13.1 Coverages and Limits. Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability (CGL) Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to City's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 The City will be named as an additional insured on Commercial General Liability which shall provide primary coverage to the City.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to City sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to City's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to City.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then City will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by City to obtain or maintain insurance and City may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. City reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

14. **BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

15. **ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

16. **OWNERSHIP OF DOCUMENTS**

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of City. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to City. Contractor will have the right to make one (1) copy of the work product for Contractor's records.

17. **COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in City and Contractor relinquishes all claims to the copyrights in favor of City.

18. **NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of City and on behalf of Contractor under this Agreement are:

For City:

Name	<u>Eleida Felix Yackel</u>
Title	<u>Senior Contract Administrator</u>
Dept	<u>Public Works/ Contract Admin</u>
	<u>CITY OF CARLSBAD</u>
Address	<u>1635 Faraday Ave.</u>
	<u>Carlsbad, CA 92008</u>
Phone	<u>442-339-2767</u>

For Contractor:

Name	<u>John S. Rivera</u>
Title	<u>President</u>
Address	<u>1810 Gillespie Way Suite 207</u>
	<u>El Cajon, CA 92020</u>
Phone	<u>619-992-6618</u>
Email	<u>Johnny@FusionEngTech.com</u>

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

**19. GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or City will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

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**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, City will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any Agreement claim submitted to City must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to City, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If City seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon City and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of City, which shall not be unreasonably withheld.

**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the City and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract, and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}

CONTRACTOR  
FUSION ENGINEERING AND TECHNOLOGY, a  
California corporation

CITY OF CARLSBAD, a municipal  
corporation of the State of California

By: John Silas Rivera, President  
(sign here)

By: \_\_\_\_\_  
Keith Blackburn, Mayor

John Silas Rivera, President  
(print name/title)

ATTEST:

By: Christopher Scott Schildmeier, Secretary and CFO  
(sign here)

SHERRY FREISINGER, City Clerk

By: \_\_\_\_\_  
Faviola Medina,  
Director of Constituent & Clerk Services

Christopher Scott Schildmeier, Secretary and CFO  
(print name/title)

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

**Group A**  
Chairman,  
President, or  
Vice-President

**Group B**  
Secretary,  
Assistant Secretary,  
CFO or Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, City Attorney

BY: Cindie K. McMahon



**EXHIBIT A****SCOPE OF SERVICES AND FEES**

Perform a variety of tasks related to computer-aided design (CAD), as outlined in the individual Project Task Descriptions and Fee Allotments (PTD&FA), including but not limited to the following:

- A. CAD Drafting and Design Services: Provide CAD drafting and design services for various city projects, including but not limited to roadways, utilities, buildings, parks, and public spaces.
- B. Provide recommendations for increasing the level of CAD software standardization across city departments to improve collaboration, consistency, and efficiency.
- C. CAD Standards Development: Develop and implement CAD standards and protocols to ensure consistency, accuracy, and compliance with industry best practices and city requirements.
- D. GIS Integration: Integrate CAD software with Geographic Information Systems (GIS) to enable spatial analysis, mapping, and data visualization for urban planning and infrastructure projects.
- E. GIS Services: Offer map production services for various programs, including traffic studies, pavement management, stormwater management, and other infrastructure projects in the city.
  - a. Develop custom GIS solutions for migration and integration with complex data models.
- F. CAD Conversion and Digitization:
  - a. Convert paper drawings and blueprints into accurate digital CAD/GIS data models for transportation projects.
  - b. Update and modify existing CAD files to meet project requirements and standards.
- G. Custom CAD Solutions:
  - a. Develop custom CAD solutions tailored to the specific needs of the City of Carlsbad's Transportation Department or Parks & Recreation Department, including specialized software plugins (ArcGIS for AutoCAD) and automation tools.
  - b. Provide training and support to ensure the division's efficient use of CAD tools and technologies.

Requests for work not listed above must be contracted under separate agreement.

Fusion Engineering and Technology  
1810 Gillespie Way Suite 207  
El Cajon, CA 92020



ATTACHMENT B – MASTER SERVICES AGREEMENT RFQ25-3437CA  
RATE SCHEDULE VALID THROUGH TERM OF AGREEMENT

**SCHEDULE OF CHARGES/RATES**

Services requested shall be billed on a time and material basis per the following fee schedule:

Principal Civil Engineer (John Rivera)	\$200/hr.
Principal CAD/ IT Analyst (Christopher Schildmeier)	\$200/hr.
Senior CAD Programmer (Donald Broussard)	\$175/hr.
Civil Engineering Project Manager (Bonnie Phillips)	\$175/hr.
Civil Engineering Designer (Arturo Heyer)	\$150/hr.
Civil Engineering Drafter (Horacio Mendoza / Jacky Lopez)	\$125/hr.
Secretary / Administrative (Erin Desjardins)	\$75/hr.

**REIMBURSABLE EXPENSES**

Project related expenses are to be considered reimbursable items in addition to the contract fee and are billed pursuant to the following reimbursable expense fee schedule:

Mileage	\$0.70/mile
Reproduction/Plotting	Cost + 15%
Photographs (film + processing)	Cost + 15%
Parking, Postage, Courier Service	Cost + 15%
Sub-Consultant Expenses	Cost + 15%
Other Miscellaneous Direct Expenses	Cost + 15%

**MASTER AGREEMENT FOR COMPUTER-AIDED DESIGN (CAD) SERVICES  
MICHAEL BAKER INTERNATIONAL, INC.**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of June, 2025, but effective July 1, 2025, by and between the City of Carlsbad, California, a municipal corporation, ("City"), and Michael Baker International, Inc., a Pennsylvania corporation ("Contractor").

**RECITALS**

- A. The City requires the professional services of a consultant with experience in providing computer-aided design (CAD) services.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. The Contractor possesses the necessary experience to provide professional services and guidance related to computer-aided design (CAD).
- D. Contractor has submitted a proposal to the city responsive to Request for Qualifications RFQ25-3437CA and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, City and Contractor agree as follows:

**1. SCOPE OF WORK**

City retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A", which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective for a period of three (3) years from July 1, 2025, through June 30, 2028. The City Manager may amend the Agreement to extend it for two (2) additional one (1) year(s) periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, City needs, and appropriation of funds by the City Council. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by City and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the City Manager or the Division Director ("Director") as authorized by the City Manager. The City Manager or Director will give allowance for documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight

on the part of Contractor, or delays caused by City inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed four hundred thousand dollars (\$400,000). Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, City shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for City, the City Manager or Director, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

If the City elects to extend the term of the Master Services Agreement, adjustments to the rate schedule may be permitted. Upon receipt of a written request from the Contractor, the City may consider approving a rate schedule increase. Rate schedule increases will be considered for each anniversary of the Agreement effective date after the initial three-year term. An increase to the rate schedule will be calculated based on the proceeding 12-month percentage change in the Consumer Price Index, San Diego Area, for All Urban Customers (CPI-U), as reported by the Bureau of Labor Statistics or 5.0%, whichever is lower. If the CPI-U is a negative number, then the rate schedule will not be adjusted for that year. The Contractor must submit a request and justification to increase the rate schedule at least sixty days prior to the anniversary of the effective date, assuming the City opt to extend the Master Services Agreement. The justification accompanying the written request should detail the rationale for the requested adjustment, and the requested adjustment amount, supported by relevant documentation (e.g., CPI-U or 5.0%, whichever is less). Approval of rate schedule increase by the City must be documented in an amendment to the Agreement.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in

the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize the Owner's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. The Contractor is required to create a free web-based Procore user account(s) and utilize web-based training / tutorials (as needed) to become familiar with the system. Unless the Engineer approves otherwise, the Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. The Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of the Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that the Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, RFIs, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

## **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of City. Contractor will be under control of City only as to the result to be accomplished, but will consult with City as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of City for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. City will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. City will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify City within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which City may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At the City's election, City may deduct the indemnification amount from any balance owing to Contractor.

**9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

**10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of City. If Contractor subcontracts any of the Services, Contractor will be fully responsible to City for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and City. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by City.

**11. OTHER CONTRACTORS**

The City reserves the right to employ other Contractors in connection with the Services.

**12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by the City), indemnify, and hold harmless the City and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation program is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

**13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current

Best's Key Rating of not less than "A-VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

13.1 Coverages and Limits. Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability (CGL) Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to City's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 The City will be named as an additional insured on Commercial General Liability which shall provide primary coverage to the City.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to City sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to City's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to City.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then City will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by City to obtain or maintain insurance and City may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. City reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

14. BUSINESS LICENSE

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

15. ACCOUNTING RECORDS

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

16. OWNERSHIP OF DOCUMENTS

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of City. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to City. Contractor will have the right to make one (1) copy of the work product for Contractor's records.

17. COPYRIGHTS

Contractor agrees that all copyrights that arise from the services will be vested in City and Contractor relinquishes all claims to the copyrights in favor of City.

18. NOTICES

The name of the persons who are authorized to give written notice or to receive written notice on behalf of City and on behalf of Contractor under this Agreement are:

For City:

Name	<u>Eleida Felix Yackel</u>
Title	<u>Senior Contract Administrator</u>
Dept	<u>Public Works/ Contract Admin</u>
	<u>CITY OF CARLSBAD</u>
Address	<u>1635 Faraday Ave.</u>
	<u>Carlsbad, CA 92008</u>
Phone	<u>442-339-2767</u>

For Contractor:

Name	<u>Joanne Tyler / Michael Baker Intl</u>
Title	<u>VP, Office Executive</u>
Address	<u>5050 Avenida Encinas, Ste 260</u>
	<u>Carlsbad, CA 92008</u>
Phone	<u>760-603-6246</u>
Email	<u>Joanne.Tyler@mbakerintl.com</u>



Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

**19. GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or City will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, City may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If City decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, City may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by City and all work in progress to City at the address contained in this Agreement. City will make a determination of fact based upon the work product delivered to City and of the percentage of work that Contractor has performed which is usable and of worth to City in having the Agreement completed. Based upon that finding City will

determine the final payment of the Agreement.

City may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to City. In the event of termination of this Agreement by either party and upon request of City, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to City. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. City will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, City will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any Agreement claim submitted to City must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to City, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If City seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon City and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of City, which shall not be unreasonably withheld.

**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the City and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract, and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}

CONTRACTOR  
Michael Baker International, Inc., a  
Pennsylvania corporation

CITY OF CARLSBAD, a municipal  
corporation of the State of California

By:

Joanne Tyler

(sign here)

By:

Keith Blackburn, Mayor

Joanne Tyler, Vice President, Office Executive  
(print name/title)

ATTEST:

SHERRY FREISINGER, City Clerk

By:

Timothy M. Thiele

(sign here)

By:

Faviola Medina,  
Director of Constituent & Clerk Services

Timothy M. Thiele, Vice President  
and Office Executive & Assistant Secretary  
(print name/title)

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

**Group A**  
Chairman,  
President, **or**  
Vice-President

**Group B**  
Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, City Attorney

BY: Cindie K. McMahon

**EXHIBIT A****SCOPE OF SERVICES AND FEES**

Perform a variety of tasks related to computer-aided design (CAD), as outlined in the individual Project Task Descriptions and Fee Allotments (PTD&FA), including but not limited to the following:

- A. CAD Drafting and Design Services: Provide CAD drafting and design services for various city projects, including but not limited to roadways, utilities, buildings, parks, and public spaces.
- B. Provide recommendations for increasing the level of CAD software standardization across city departments to improve collaboration, consistency, and efficiency.
- C. CAD Standards Development: Develop and implement CAD standards and protocols to ensure consistency, accuracy, and compliance with industry best practices and city requirements.
- D. GIS Integration: Integrate CAD software with Geographic Information Systems (GIS) to enable spatial analysis, mapping, and data visualization for urban planning and infrastructure projects.
- E. GIS Services: Offer map production services for various programs, including traffic studies, pavement management, stormwater management, and other infrastructure projects in the city.
  - a. Develop custom GIS solutions for migration and integration with complex data models.
- F. CAD Conversion and Digitization:
  - a. Convert paper drawings and blueprints into accurate digital CAD/GIS data models for transportation projects.
  - b. Update and modify existing CAD files to meet project requirements and standards.
- G. Custom CAD Solutions:
  - a. Develop custom CAD solutions tailored to the specific needs of the City of Carlsbad's Transportation Department or Parks & Recreation Department, including specialized software plugins (ArcGIS for AutoCAD) and automation tools.
  - b. Provide training and support to ensure the division's efficient use of CAD tools and technologies.

Requests for work not listed above must be contracted under separate agreement.

PSA25-3732CA

## HOURLY RATES

Pricing shall remain firm for the three (3) year term of the Agreement.

Name	Role	Hourly Rate
Geoff Retemeyer, PE, TE	Contract Manager	\$230
Samantha Lathrop, EIT	Deputy Project Manager	\$160
Wesley Tyler	CAD Drafting & Design	\$110
Greg Pinz	CAD Standards Development Lead	\$130
Rick Hendrickson, GISP	GIS Integration & Conversion Lead	\$220
Tyler Kutscher	CAD Custom Solutions & Training Lead	\$120
TBD	Design Technician/Drafter	\$100
Andy Taylor	Office Support/Clerical	\$75

## EXPENSES

Description	Cost	% Markup
Mileage	At the IRS approved rate	N/A
Copy Services	At cost	10%

**MASTER AGREEMENT FOR COMPUTER-AIDED DESIGN (CAD) SERVICES  
NV5, INC.**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of June, 2025, but effective July 1, 2025, by and between the City of Carlsbad, California, a municipal corporation, ("City"), and NV5, Inc., a California corporation ("Contractor").

**RECITALS**

- A. The City requires the professional services of a consultant with experience in providing computer-aided design (CAD) services.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. The Contractor possesses the necessary experience to provide professional services and guidance related to computer-aided design (CAD).
- D. Contractor has submitted a proposal to the city responsive to Request for Qualifications RFQ25-3437CA and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, City and Contractor agree as follows:

**1. SCOPE OF WORK**

City retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A", which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective for a period of three (3) years from July 1, 2025, through June 30, 2028. The City Manager may amend the Agreement to extend it for two (2) additional one (1) year(s) periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, City needs, and appropriation of funds by the City Council. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by City and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the City Manager or the Division Director ("Director") as authorized by the City Manager. The City Manager or Director will give allowance for documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight

on the part of Contractor, or delays caused by City inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed four hundred thousand dollars (\$400,000). Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, City shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for City, the City Manager or Director, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

If the City elects to extend the term of the Master Services Agreement, adjustments to the rate schedule may be permitted. Upon receipt of a written request from the Contractor, the City may consider approving a rate schedule increase. Rate schedule increases will be considered for each anniversary of the Agreement effective date after the initial three-year term. An increase to the rate schedule will be calculated based on the proceeding 12-month percentage change in the Consumer Price Index, San Diego Area, for All Urban Customers (CPI-U), as reported by the Bureau of Labor Statistics or 5.0%, whichever is lower. If the CPI-U is a negative number, then the rate schedule will not be adjusted for that year. The Contractor must submit a request and justification to increase the rate schedule at least sixty days prior to the anniversary of the effective date, assuming the City opt to extend the Master Services Agreement. The justification accompanying the written request should detail the rationale for the requested adjustment, and the requested adjustment amount, supported by relevant documentation (e.g., CPI-U or 5.0%, whichever is less). Approval of rate schedule increase by the City must be documented in an amendment to the Agreement.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in



the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize the Owner's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. The Contractor is required to create a free web-based Procore user account(s) and utilize web-based training / tutorials (as needed) to become familiar with the system. Unless the Engineer approves otherwise, the Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. The Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of the Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that the Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, RFIs, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

## **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of City. Contractor will be under control of City only as to the result to be accomplished, but will consult with City as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of City for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. City will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. City will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify City within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which City may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At the City's election, City may deduct the indemnification amount from any balance owing to Contractor.

**9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

**10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of City. If Contractor subcontracts any of the Services, Contractor will be fully responsible to City for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and City. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by City.

**11. OTHER CONTRACTORS**

The City reserves the right to employ other Contractors in connection with the Services.

**12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by the City), indemnify, and hold harmless the City and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation program is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

**13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current

Best's Key Rating of not less than "A-VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

13.1 Coverages and Limits. Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability (CGL) Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to City's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 The City will be named as an additional insured on Commercial General Liability which shall provide primary coverage to the City.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to City sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to City's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to City.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then City will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by City to obtain or maintain insurance and City may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. City reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

14. **BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

15. **ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

16. **OWNERSHIP OF DOCUMENTS**

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of City. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to City. Contractor will have the right to make one (1) copy of the work product for Contractor's records.

17. **COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in City and Contractor relinquishes all claims to the copyrights in favor of City.

18. **NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of City and on behalf of Contractor under this Agreement are:

For City:

Name	<u>Eleida Felix Yackel</u>
Title	<u>Senior Contract Administrator</u>
Dept	<u>Public Works/ Contract Admin</u>
	<u>CITY OF CARLSBAD</u>
Address	<u>1635 Faraday Ave.</u>
	<u>Carlsbad, CA 92008</u>
Phone	<u>442-339-2767</u>

For Contractor:

Name	<u>Jeffrey M. Cooper</u>
Title	<u>Executive Vice President, COO</u>
Address	<u>15092 Avenue of Science, Suite 200</u>
	<u>San Diego, CA 92128</u>
Phone	<u>858.531.6666</u>
Email	<u>Jeff.Cooper@NV5.com</u>

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

**19. GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or City will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, City may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If City decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, City may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by City and all work in progress to City at the address contained in this Agreement. City will make a determination of fact based upon the work product delivered to City and of the percentage of work that Contractor has performed which is usable and of worth to City in having the Agreement completed. Based upon that finding City will

determine the final payment of the Agreement.

City may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to City. In the event of termination of this Agreement by either party and upon request of City, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to City. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. City will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, City will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any Agreement claim submitted to City must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to City, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If City seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon City and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of City, which shall not be unreasonably withheld.

**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the City and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

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The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}

CONTRACTOR  
NV5, Inc., a California corporation

CITY OF CARLSBAD, a municipal corporation of  
the State of California

By:

Jeffrey Cooper, COO INF West

(sign here)

Jeffrey M. Cooper, COO INF WEST

(print name/title)

By:

(sign here)

(print name/title)

By:

Keith Blackburn, Mayor

ATTEST:

SHERRY FREISINGER, City Clerk

By:

Faviola Medina,  
Director of Constituent & Clerk Services

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

**Group A**

Chairman,  
President, **or**  
Vice-President

**Group B**

Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, City Attorney

BY:

Cindie K. McMahon



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Perform a variety of tasks related to computer-aided design (CAD), as outlined in the individual Project Task Descriptions and Fee Allotments (PTD&FA), including but not limited to the following:

- A. CAD Drafting and Design Services: Provide CAD drafting and design services for various city projects, including but not limited to roadways, utilities, buildings, parks, and public spaces.
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- C. CAD Standards Development: Develop and implement CAD standards and protocols to ensure consistency, accuracy, and compliance with industry best practices and city requirements.
- D. GIS Integration: Integrate CAD software with Geographic Information Systems (GIS) to enable spatial analysis, mapping, and data visualization for urban planning and infrastructure projects.
- E. GIS Services: Offer map production services for various programs, including traffic studies, pavement management, stormwater management, and other infrastructure projects in the city.
  - a. Develop custom GIS solutions for migration and integration with complex data models.
- F. CAD Conversion and Digitization:
  - a. Convert paper drawings and blueprints into accurate digital CAD/GIS data models for transportation projects.
  - b. Update and modify existing CAD files to meet project requirements and standards.
- G. Custom CAD Solutions:
  - a. Develop custom CAD solutions tailored to the specific needs of the City of Carlsbad's Transportation Department or Parks & Recreation Department, including specialized software plugins (ArcGIS for AutoCAD) and automation tools.
  - b. Provide training and support to ensure the division's efficient use of CAD tools and technologies.

Requests for work not listed above must be contracted under separate agreement.

# FEE SCHEDULE



## Fee Schedule

NAME	TITLE	HOURLY RATE**
<b>Tamara O'Neal, PE</b>	Engineering Manager	\$235
<b>David Niknafs, PE</b>	Director of Transportation	\$235
<b>Amy Storey, LEED AP</b>	GIS Manager	\$193
<b>Rafael Gutierrez</b>	CADD Design	\$150
<b>Michael Rocco</b>	Senior Designer	\$174
<b>Amir Mansour, EIT</b>	Project Engineer	\$158
<b>Matthew Ronquillo</b>	Assistant Engineer	\$148
<b>Brad Shin, EIT</b>	Associate Engineer	\$170
<b>Art Biscocho</b>	Project Engineer	\$158
<b>Joel Paulson, PLS, GISP</b>	Director, Survey	\$235
<b>John Spooner</b>	GIS Technician	\$145
<b>Dawit Begashaw</b>	GIS Technician	\$145
<b>Russell White</b>	GIS Technician	\$145

## Reimbursable Expenses

REIMBURSABLES	COST	%MARKUP
Reproduction	Cost	0%
Consultant Services	Cost + 10%	10%
Mileage	per IRS standard	0%
Delivery, Freight, Courier	Cost	0%
Agency Fees	Cost	0%

\*\* Regular rates. Work in excess of 8 hours and work on Saturdays will be billed at 1.5 times the regular rate. Work in excess of 12 hours and work on Sundays and Holidays will be billed at 2 times the regular rate.

**MASTER AGREEMENT FOR ENVIRONMENTAL/STORM WATER SERVICES  
D-MAX ENGINEERING, INC.**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of June, 2025, but effective July 1, 2025, by and between the City of Carlsbad, California, a municipal corporation, ("City"), and D-Max Engineering, Inc., a California corporation ("Contractor").

**RECITALS**

- A. The City requires the professional services of a consultant experienced in environmental and storm water.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. The Contractor possesses the necessary experience to provide professional services and guidance related to environmental and storm water.
- D. Contractor has submitted a proposal to the city responsive to Request for Qualifications RFQ25-3437CA and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, City and Contractor agree as follows:

**1. SCOPE OF WORK**

City retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A", which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective for a period of three (3) years from July 1, 2025, through June 30, 2028. The City Manager may amend the Agreement to extend it for two (2) additional one (1) year(s) periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, City needs, and appropriation of funds by the City Council. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by City and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the City Manager or the Division Director ("Director") as authorized by the City Manager. The City Manager or Director will give allowance for documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight

on the part of Contractor, or delays caused by City inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed five hundred thousand dollars (\$500,000). Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, City shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for City, the City Manager or Director, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

If the City elects to extend the term of the Master Services Agreement, adjustments to the rate schedule may be permitted. Upon receipt of a written request from the Contractor, the City may consider approving a rate schedule increase. Rate schedule increases will be considered for each anniversary of the Agreement effective date after the initial three-year term. An increase to the rate schedule will be calculated based on the proceeding 12-month percentage change in the Consumer Price Index, San Diego Area, for All Urban Customers (CPI-U), as reported by the Bureau of Labor Statistics or 5.0%, whichever is lower. If the CPI-U is a negative number, then the rate schedule will not be adjusted for that year. The Contractor must submit a request and justification to increase the rate schedule at least sixty days prior to the anniversary of the effective date, assuming the City opt to extend the Master Services Agreement. The justification accompanying the written request should detail the rationale for the requested adjustment, and the requested adjustment amount, supported by relevant documentation (e.g., CPI-U or 5.0%, whichever is less). Approval of rate schedule increase by the City must be documented in an amendment to the Agreement.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in

the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize the Owner's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. The Contractor is required to create a free web-based Procore user account(s) and utilize web-based training / tutorials (as needed) to become familiar with the system. Unless the Engineer approves otherwise, the Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. The Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of the Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that the Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, RFIs, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

## **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of City. Contractor will be under control of City only as to the result to be accomplished, but will consult with City as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of City for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. City will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. City will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify City within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which City may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At the City's election, City may deduct the indemnification amount from any balance owing to Contractor.

**9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

**10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of City. If Contractor subcontracts any of the Services, Contractor will be fully responsible to City for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and City. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by City.

**11. OTHER CONTRACTORS**

The City reserves the right to employ other Contractors in connection with the Services.

**12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by the City), indemnify, and hold harmless the City and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation program is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

**13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current

Best's Key Rating of not less than "A-VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

13.1 Coverages and Limits. Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability (CGL) Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to City's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 The City will be named as an additional insured on Commercial General Liability which shall provide primary coverage to the City.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to City sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to City's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to City.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then City will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by City to obtain or maintain insurance and City may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. City reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

14. BUSINESS LICENSE

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

15. ACCOUNTING RECORDS

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

16. OWNERSHIP OF DOCUMENTS

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of City. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to City. Contractor will have the right to make one (1) copy of the work product for Contractor's records.

17. COPYRIGHTS

Contractor agrees that all copyrights that arise from the services will be vested in City and Contractor relinquishes all claims to the copyrights in favor of City.

18. NOTICES

The name of the persons who are authorized to give written notice or to receive written notice on behalf of City and on behalf of Contractor under this Agreement are:

For City:

Name	Eleida Felix Yackel
Title	Senior Contract Administrator
Dept	Public Works/ Contract Admin
	CITY OF CARLSBAD
Address	1635 Faraday Ave.
	Carlsbad, CA 92008
Phone	442-339-2767

For Contractor:

Name	Arsalan Dadkhah
Title	President
Address	5440 Morehouse Dr. #4500
	San Diego, CA 92121
Phone	858 352 6816
Email	arsalan@dmmaxinc.com



Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

**19. GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or City will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, City may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If City decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, City may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by City and all work in progress to City at the address contained in this Agreement. City will make a determination of fact based upon the work product delivered to City and of the percentage of work that Contractor has performed which is usable and of worth to City in having the Agreement completed. Based upon that finding City will

determine the final payment of the Agreement.

City may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to City. In the event of termination of this Agreement by either party and upon request of City, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to City. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. City will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, City will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any Agreement claim submitted to City must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to City, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If City seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon City and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of City, which shall not be unreasonably withheld.

**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the City and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract, and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}

CONTRACTOR  
D-MAX ENGINEERING, INC., a California  
corporation

CITY OF CARLSBAD, a municipal corporation of  
the State of California

By:

*Arsalan Dadkhah*

(sign here)

Arsalan Dadkhan, President

(print name/title)

By:

*John Quenzer*

(sign here)

John Quenzer, Secretary

(print name/title)

By:

Keith Blackburn, Mayor

ATTEST:

SHERRY FREISINGER, City Clerk

By:

Faviola Medina,  
Director of Constituent & Clerk Services

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

**Group A**

Chairman,  
President, **or**  
Vice-President

**Group B**

Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, City Attorney

BY:

*Cindie K. McMahon*

**EXHIBIT A****SCOPE OF SERVICES AND FEES**

Perform a variety of tasks related to environmental and storm water, as outlined in the individual Project Task Descriptions and Fee Allotments (PTD&FA), including but not limited to the following:

- A. Trash Amendments Compliance.
- B. Illicit Discharge Detection Elimination (IDDE) Investigations and Special Studies.
- C. Program Regulatory Support/Compliance.
- D. NPDES MS4 Permit / Jurisdiction/Watershed Program Updates.
- E. NPDES MS4 Program Evaluations/ Program Assessments.
- F. MS4 Jurisdiction/Watershed Reporting.
- G. Storm Water Pollution Prevention Plans (SWPPP) (Municipal i.e. Not Construction).
- H. NPDES Compliance Training.
- I. Emergency Action Plan / Support.
- J. Monitoring and assessment.

Requests for work not listed above must be contracted under separate agreement.

**EXHIBIT B - MASTER AGREEMENT RATE SCHEDULE - DISCIPLINE 4**

Prices valid through Term of Agreement.

<b><u>STAFF</u></b>			
	<b><u>NAME</u></b>	<b><u>TITLE</u></b>	<b><u>HOURLY RATE</u></b>
1	Arsalan Dadkhah	Principal Engineer	\$249.00
2	John Quenzer	Principal Scientist	\$236.00
3	Annika Dorman	Senior Scientist	\$204.00
4	Teresa Lyndon	Project Scientist	\$180.00
5	Nick LaPaglia	Assistant Project Scientist	\$160.00
6	Zoe Sebright	Assistant Project Scientist	\$160.00
7	Kate Molton	Staff Scientist II	\$139.00
8	Mateo Seda	Staff Scientist I	\$123.00
9	Max Kelly	Staff Scientist I	\$123.00

<b><u>SUB-CONSULTANTS</u></b>			
	<b><u>NAME</u></b>	<b><u>TITLE</u></b>	<b><u>HOURLY RATE</u></b>
1	Bryn Evans (Craftwater)	Principal Scientist	\$304.00

<b><u>EXPENSES</u></b>			
	<b><u>DESCRIPTION</u></b>	<b><u>COST</u></b>	<b><u>% MARKUP</u></b>
1	Mileage	(Current IRS rate)	0%
2	Copy services (outside; no charge for in-house copies)	As billed by outside copy service (e.g., Office Depot)	5%
3	Laboratory analyses	Varies by analysis; specific quote will be provided for when City requests analyses	5%
4	Flow meter rental	Varies; specific quote will be provided for when City requests meters to be installed	5%
5	Ice (for monitoring)	As billed at point of sale (gas station, etc.)	5%
6	Postage	As billed by postal service provider (USPS, UPS, FedEx, etc.)	5%
7	Tablet with mobile internet service	\$55/month	0%
8	Parking	As billed by parking provider	5%
9	Subcontracted services	As billed by Craftwater	0%

**Notes**

-Rates for particular staff levels will be held constant over the term of the agreement, but may be adjusted up for individual staff listed in the tables above if those staff are promoted to a higher level during the term of the agreement.

-New staff members may be hired during the term of the agreement; they will be charged at the billing rate appropriate to their level (e.g., Staff Scientist II).

**D-MAX Engineering, Inc.**  
**2025-2028<sup>1</sup> SCHEDULE OF CHARGES FOR CITY OF CARLSBAD**

**LABOR**

<b><u>Classification</u></b>	<b><u>Hourly Rate (\$)</u></b>
Word Processor/Admin	100
Drafter	113
Technician	100
Senior Technician	112
Staff Scientist I	123
Staff Scientist II	139
Assistant Project Scientist	160
Project Scientist	180
Senior Scientist	204
Principal Scientist	236
Staff Engineer I	139
Staff Engineer II	150
Assistant Project Engineer	173
Project Engineer	194
Senior Engineer	221
Principal Engineer	249

<sup>1</sup> Rates provided below will be valid for the 3-year term of the agreement.

**Craftwater Engineering, Inc.**  
**2025-2028<sup>1</sup> SCHEDULE OF CHARGES FOR CITY OF CARLSBAD**

<b>LABOR</b>	
<b><u>Classification</u></b>	<b><u>Hourly Rate (\$)</u></b>
<b>MANAGEMENT</b>	
President	330
Principal Engineer/Scientist	304
Senior Project Manager	286
Project Manager	269
<b>ENGINEERING AND SCIENCE</b>	
Senior Engineer	255
Senior Associate Engineer	232
Associate Engineer	207
Junior Engineer	164
Senior Water Resources Specialist or Hydrologist	213
Associate Water Resources Specialist or Hydrologist	188
Junior Water Resources Specialist or Hydrologist	152
Senior Scientist	219
Associate Scientist	177
Junior Scientist	140
<b>ARCHITECTURAL</b>	
Principal Landscape Architect	250
Associate Landscape Architect	207
Senior Landscape Architectural Designer	164
Landscape Architectural Designer	145
<b>TECHNICAL</b>	
Senior Programmer/Web Developer	244
Associate Programmer/Web Developer	182
Civil Designer	172
CADD Technician	145
Senior GIS Analyst	194
Associate GIS Analyst	158
<b>PRODUCTION AND ADMINISTRATIVE</b>	
Senior Graphics Artist	182
Staff Graphics Artist	135
Senior Technical Editor	152
Technical Editor	128
Contract Administrator	182
Administrative/Clerical	98
Water Resources Intern	67

<sup>1</sup> Rates provided below will be valid for the 3-year term of the agreement.



**MASTER AGREEMENT FOR ENVIRONMENTAL/STORM WATER SERVICES  
MIKHAIL OGAWA ENGINEERING, INC.**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of June, 2025, but effective July 1, 2025, by and between the City of Carlsbad, California, a municipal corporation, ("City"), and Mikhail Ogawa Engineering, Inc., a California corporation ("Contractor").

**RECITALS**

- A. The City requires the professional services of a consultant experienced in environmental and storm water.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. The Contractor possesses the necessary experience to provide professional services and guidance related to environmental and storm water.
- D. Contractor has submitted a proposal to the city responsive to Request for Qualifications RFQ25-3437CA and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, City and Contractor agree as follows:

**1. SCOPE OF WORK**

City retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A", which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective for a period of three (3) years from July 1, 2025, through June 30, 2028. The City Manager may amend the Agreement to extend it for two (2) additional one (1) year(s) periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, City needs, and appropriation of funds by the City Council. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by City and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the City Manager or the Division Director ("Director") as authorized by the City Manager. The City Manager or Director will give allowance for documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight

on the part of Contractor, or delays caused by City inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed six hundred thousand dollars (\$600,000). Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, City shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for City, the City Manager or Director, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

If the City elects to extend the term of the Master Services Agreement, adjustments to the rate schedule may be permitted. Upon receipt of a written request from the Contractor, the City may consider approving a rate schedule increase. Rate schedule increases will be considered for each anniversary of the Agreement effective date after the initial three-year term. An increase to the rate schedule will be calculated based on the proceeding 12-month percentage change in the Consumer Price Index, San Diego Area, for All Urban Customers (CPI-U), as reported by the Bureau of Labor Statistics or 5.0%, whichever is lower. If the CPI-U is a negative number, then the rate schedule will not be adjusted for that year. The Contractor must submit a request and justification to increase the rate schedule at least sixty days prior to the anniversary of the effective date, assuming the City opt to extend the Master Services Agreement. The justification accompanying the written request should detail the rationale for the requested adjustment, and the requested adjustment amount, supported by relevant documentation (e.g., CPI-U or 5.0%, whichever is less). Approval of rate schedule increase by the City must be documented in an amendment to the Agreement.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in

the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize the Owner's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. The Contractor is required to create a free web-based Procore user account(s) and utilize web-based training / tutorials (as needed) to become familiar with the system. Unless the Engineer approves otherwise, the Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. The Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of the Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that the Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, RFIs, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

## **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of City. Contractor will be under control of City only as to the result to be accomplished, but will consult with City as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of City for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. City will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. City will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify City within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which City may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At the City's election, City may deduct the indemnification amount from any balance owing to Contractor.

**9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

**10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of City. If Contractor subcontracts any of the Services, Contractor will be fully responsible to City for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and City. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by City.

**11. OTHER CONTRACTORS**

The City reserves the right to employ other Contractors in connection with the Services.

**12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by the City), indemnify, and hold harmless the City and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation program is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

**13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current

Best's Key Rating of not less than "A-VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

13.1 Coverages and Limits. Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability (CGL) Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to City's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 The City will be named as an additional insured on Commercial General Liability which shall provide primary coverage to the City.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to City sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to City's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to City.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then City will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by City to obtain or maintain insurance and City may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. City reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

14. BUSINESS LICENSE

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

15. ACCOUNTING RECORDS

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

16. OWNERSHIP OF DOCUMENTS

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of City. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to City. Contractor will have the right to make one (1) copy of the work product for Contractor's records.

17. COPYRIGHTS

Contractor agrees that all copyrights that arise from the services will be vested in City and Contractor relinquishes all claims to the copyrights in favor of City.

18. NOTICES

The name of the persons who are authorized to give written notice or to receive written notice on behalf of City and on behalf of Contractor under this Agreement are:

For City:

Name	<u>Eleida Felix Yackel</u>
Title	<u>Senior Contract Administrator</u>
Dept	<u>Public Works/ Contract Admin</u>
	<u>CITY OF CARLSBAD</u>
Address	<u>1635 Faraday Ave.</u>
	<u>Carlsbad, CA 92008</u>
Phone	<u>442-339-2767</u>

For Contractor:

Name	<u>Mikhail Ogawa</u>
Title	<u>President/Secretary</u>
Address	<u>3525 Del Mar Heights Rd, 429</u>
	<u>San Diego, CA 92130</u>
Phone	<u>858.987.4169</u>
Email	<u>mikhail@mogawaeng.com</u>



Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

**19. GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or City will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, City may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If City decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, City may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by City and all work in progress to City at the address contained in this Agreement. City will make a determination of fact based upon the work product delivered to City and of the percentage of work that Contractor has performed which is usable and of worth to City in having the Agreement completed. Based upon that finding City will

determine the final payment of the Agreement.

City may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to City. In the event of termination of this Agreement by either party and upon request of City, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to City. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. City will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, City will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any Agreement claim submitted to City must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to City, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If City seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon City and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of City, which shall not be unreasonably withheld.



**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the City and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract, and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}

CONTRACTOR  
Mikhail Ogawa Engineering, Inc., a California corporation

CITY OF CARLSBAD, a municipal corporation of the State of California

By: Mikhail Ogawa

By:

(sign here)

Keith Blackburn, Mayor

Mikhail Ogawa, President and Secretary

(print name/title)

ATTEST:

SHERRY FREISINGER, City Clerk

By:

By:

(sign here)

Faviola Medina,  
Director of Constituent & Clerk Services

(print name/title)

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

**Group A**

Chairman,  
President, **or**  
Vice-President

**Group B**

Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, City Attorney

BY: Cindie K. McMahon

**EXHIBIT A****SCOPE OF SERVICES AND FEES**

Perform a variety of tasks related to environmental and storm water, as outlined in the individual Project Task Descriptions and Fee Allotments (PTD&FA), including but not limited to the following:

- A. Trash Amendments Compliance.
- B. Illicit Discharge Detection Elimination (IDDE) Investigations and Special Studies.
- C. Program Regulatory Support/Compliance.
- D. NPDES MS4 Permit / Jurisdiction/Watershed Program Updates.
- E. NPDES MS4 Program Evaluations/ Program Assessments.
- F. MS4 Jurisdiction/Watershed Reporting.
- G. Storm Water Pollution Prevention Plans (SWPPP) (Municipal i.e. Not Construction).
- H. NPDES Compliance Training.
- I. Emergency Action Plan / Support.
- J. Monitoring and assessment.

Requests for work not listed above must be contracted under separate agreement.

# CARLSBAD MASTER AGREEMENT RATE SCHEDULE

## HOURLY RATE SCHEDULE - EFFECTIVE AT TIME OF CONTRACT APPROVAL

### VALID THROUGH TERM OF AGREEMENT

STAFF			
	Name	Title	Hourly Rate
1.	Mikhail Ogawa	Principal in Charge/Project Manager (President   Senior Principal)	\$220.00
2.	Roshan Christoph	Technical Lead   Lead Quality Assurance and Control (Associate Principal)	\$208.00
3.	Nehemiah Martinez	Technical and Field Support (Senior Scientist)	\$180.00
4.	Genel Davis	Lead Quality Control/Assurance (Associate Engineer)	\$170.00
5.	Zach Rowlands	Technical and Field Support (Associate Scientist)	\$170.00
6.	Sara Afshar	Technical and Field Support (Associate Scientist)	\$170.00
7.	Ellie Deer	Technical and Field Support (Assistant Scientist)	\$160.00
8.	Shane Daly	Technical and Field Support (Assistant Scientist)	\$160.00

SUB-CONSULTANTS			
	Name/Firm	Title	Hourly Rate
1.	Ashli Desai / Larry Walker Associates, Inc	Regulatory Advisor (President)	\$379.00
2.	Paul Hartman / Larry Walker Associates, Inc	Regulatory and Technical Support (Associate II)	\$335.00
3.	Zaida Cholico / Larry Walker Associates, Inc	Regulatory and Technical Support (Project Engineer I-A)	\$208.00

EXPENSES			
	Description	Cost	% Markup
1.	Mileage	Current IRS Rate	-
2.	Fleet Vehicle	\$110.00/day	-
3.	Subcontractors and Direct Costs	Cost	10%

**MASTER AGREEMENT FOR ENVIRONMENTAL/STORM WATER SERVICES  
NV5, INC.**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of June, 2025, but effective July, 1, 2025, by and between the City of Carlsbad, California, a municipal corporation, ("City"), and NV5, Inc., a California corporation ("Contractor").

**RECITALS**

- A. The City requires the professional services of a consultant experienced in environmental and storm water.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. The Contractor possesses the necessary experience to provide professional services and guidance related to environmental and storm water.
- D. Contractor has submitted a proposal to the city responsive to Request for Qualifications RFQ25-3437CA and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, City and Contractor agree as follows:

**1. SCOPE OF WORK**

City retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A", which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective for a period of three (3) years from July 1, 2025, through June 30, 2028. The City Manager may amend the Agreement to extend it for two (2) additional one (1) year(s) periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, City needs, and appropriation of funds by the City Council. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by City and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the City Manager or the Division Director ("Director") as authorized by the City Manager. The City Manager or Director will give allowance for documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight

on the part of Contractor, or delays caused by City inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed five hundred thousand dollars (\$500,000). Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, City shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for City, the City Manager or Director, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

If the City elects to extend the term of the Master Services Agreement, adjustments to the rate schedule may be permitted. Upon receipt of a written request from the Contractor, the City may consider approving a rate schedule increase. Rate schedule increases will be considered for each anniversary of the Agreement effective date after the initial three-year term. An increase to the rate schedule will be calculated based on the proceeding 12-month percentage change in the Consumer Price Index, San Diego Area, for All Urban Customers (CPI-U), as reported by the Bureau of Labor Statistics or 5.0%, whichever is lower. If the CPI-U is a negative number, then the rate schedule will not be adjusted for that year. The Contractor must submit a request and justification to increase the rate schedule at least sixty days prior to the anniversary of the effective date, assuming the City opt to extend the Master Services Agreement. The justification accompanying the written request should detail the rationale for the requested adjustment, and the requested adjustment amount, supported by relevant documentation (e.g., CPI-U or 5.0%, whichever is less). Approval of rate schedule increase by the City must be documented in an amendment to the Agreement.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in

the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize the Owner's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. The Contractor is required to create a free web-based Procore user account(s) and utilize web-based training / tutorials (as needed) to become familiar with the system. Unless the Engineer approves otherwise, the Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. The Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of the Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that the Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, RFIs, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

## **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of City. Contractor will be under control of City only as to the result to be accomplished, but will consult with City as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of City for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. City will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. City will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify City within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which City may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At the City's election, City may deduct the indemnification amount from any balance owing to Contractor.

**9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

**10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of City. If Contractor subcontracts any of the Services, Contractor will be fully responsible to City for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and City. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by City.

**11. OTHER CONTRACTORS**

The City reserves the right to employ other Contractors in connection with the Services.

**12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by the City), indemnify, and hold harmless the City and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation program is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

**13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current



Best's Key Rating of not less than "A-VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

13.1 Coverages and Limits. Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability (CGL) Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to City's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 The City will be named as an additional insured on Commercial General Liability which shall provide primary coverage to the City.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to City sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to City's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to City.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then City will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by City to obtain or maintain insurance and City may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. City reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

14. **BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

15. **ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

16. **OWNERSHIP OF DOCUMENTS**

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of City. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to City. Contractor will have the right to make one (1) copy of the work product for Contractor's records.

17. **COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in City and Contractor relinquishes all claims to the copyrights in favor of City.

18. **NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of City and on behalf of Contractor under this Agreement are:

For City:

Name	<u>Eleida Felix Yackel</u>
Title	<u>Senior Contract Administrator</u>
Dept	<u>Public Works/ Contract Admin</u>
	<u>CITY OF CARLSBAD</u>
Address	<u>1635 Faraday Ave.</u>
	<u>Carlsbad, CA 92008</u>
Phone	<u>442-339-2767</u>

For Contractor:

Name	<u>David Renfrew</u>
Title	<u>Vice President</u>
Address	<u>15092 Avenue of the Sciences</u>
	<u>Suite 200</u>
Phone	<u>760-908-5749</u>
Email	<u>david.renfrew@nv5.com</u>

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

**19. GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or City will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, City may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If City decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, City may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by City and all work in progress to City at the address contained in this Agreement. City will make a determination of fact based upon the work product delivered to City and of the percentage of work that Contractor has performed which is usable and of worth to City in having the Agreement completed. Based upon that finding City will

determine the final payment of the Agreement.

City may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to City. In the event of termination of this Agreement by either party and upon request of City, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to City. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. City will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, City will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any Agreement claim submitted to City must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to City, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If City seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon City and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of City, which shall not be unreasonably withheld.

**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the City and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract, and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}

CONTRACTOR  
NV5, Inc., a California corporation

CITY OF CARLSBAD, a municipal corporation of  
the State of California

By:

Noreen Clindinning

(sign here)

By:

Keith Blackburn, Mayor

Noreen Clindinning,

Chief Operating Officer Environmental Health Services

ATTEST:

SHERRY FREISINGER, City Clerk

By:

By:

(sign here)

Faviola Medina,  
Director of Constituent & Clerk Services

(print name/title)

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

**Group A**

Chairman,  
President, **or**  
Vice-President

**Group B**

Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, City Attorney

BY:

Cindie K. McMahon

**EXHIBIT A****SCOPE OF SERVICES AND FEES**

Perform a variety of tasks related to environmental and storm water, as outlined in the individual Project Task Descriptions and Fee Allotments (PTD&FA), including but not limited to the following:

- A. Trash Amendments Compliance.
- B. Illicit Discharge Detection Elimination (IDDE) Investigations and Special Studies.
- C. Program Regulatory Support/Compliance.
- D. NPDES MS4 Permit / Jurisdiction/Watershed Program Updates.
- E. NPDES MS4 Program Evaluations/ Program Assessments.
- F. MS4 Jurisdiction/Watershed Reporting.
- G. Storm Water Pollution Prevention Plans (SWPPP) (Municipal i.e. Not Construction).
- H. NPDES Compliance Training.
- I. Emergency Action Plan / Support.
- J. Monitoring and assessment.

Requests for work not listed above must be contracted under separate agreement.

<b><u>STAFF</u></b>			
	<b><u>Name</u></b>	<b><u>Title</u></b>	<b><u>Hourly Rate</u></b>
1	Lisa Kay	Executive Vice President	\$260
2	Michael Drennan	Vice President, Water Resources	\$240
3	Dave Renfrew	Vice President, Water Resources	\$240
4	Andrew Brenner	Vice President	\$240
5	Michelle Mattson	Director, Water Resources	\$230
6	Matt Moore	Director, Water Resources	\$230
7	Wenkai Qin	Principal Engineer	\$230
8	Jennifer Peterson	Engineering Manager	\$215
9	Christian Braun	Senior Project Manager	\$215
10	Sheila Holt	Senior Project Manager	\$215
11	Alex Schriewer	Senior Project Manager	\$215
12	Brianna Martin	Senior Project Manager	\$215
13	Garth Engelhorn	Senior Project Manager	\$215
14	Jeff Rex	Senior Environmental Consultant	\$215
15	Matt Renaud	Senior Consultant, Water Resources	\$210
16	Amy Margolis	Project Manager	\$170
17	Jacqueline McMillen	Senior Engineer	\$170
18	Amy Storey	GIS Manager	\$170
19	Satomi Yonemasu	Senior Scientist	\$160
20	Dan McCoy	Senior Scientist	\$160
21	Kyle Clouthier	Associate Project Manager	\$145
22	Nicholas Poser	Associate III	\$145
23	Jillian Amaya	Project Scientist	\$140
24	Sam Brogadir	Associate II	\$140
25	Inez Bretado	Associate II	\$140
26	Katlin Goodrich	Associate II	\$140
27	Alex Cox	Associate I	\$135
28	Ryan Dunlap	Specialist II	\$110
29	Logan Bowdish	Specialist II	\$110
30	Matt Muilenberg	Specialist II	\$110
31	TJ Hackett	Specialist II	\$110
32	Jessie Marra	Specialist I	\$95



<b><u>SUB-CONSULTANTS</u></b>			
	<b><u>Name/Firm</u></b>	<b><u>Title</u></b>	<b><u>Hourly Rate*</u></b>
2	Chad Praul/Environmental Incentives (EI)	Sr Program Design Spec VIII	\$329.80
1	Megan Chery/EI	Sr Program Design Spec V	\$253.74
3	Joe Tomerlin/EI	Program Design Spec IV	\$145.73
4	Alexandra Eisinger/EI	Program Design Spec III	\$131.51
5	Jeremy Wood/EI	Program Design Spec III	\$131.51

\*A 5 % markup will be applied

<b><u>LABORATORY SUB-CONSULTANTS</u></b>			
	<b><u>Description</u></b>	<b><u>Cost</u></b>	<b><u>% Markup</u></b>
1	Physis Environmental Laboratories	Analytical services pricing is included in Attachment A	5%
2	Isotech	Isotope laboratory services pricing is included in Attachment A	5%
3	AP Genomics	Molecular laboratory services pricing is included in Attachment A	5%
4	Weck Laboratories, Inc.	Analytical services pricing is included in Attachment A	5%
5	Alpha Analytical Laboratories	Analytical services pricing is included in Attachment A	5%

<b><u>EXPENSES</u></b>			
	<b><u>Description</u></b>	<b><u>Cost</u></b>	<b><u>% Markup</u></b>
1	Mileage	Current IRS standard mileage rate	0%
2	Equipment Rates	Equipment Rate Schedule provided in Table 1	0%

Table 1. Equipment Rate Schedule

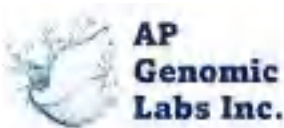
Equipment	Rate	Basis
<b>VESSELS/VEHICLES</b>		
Vehicle (Company Car)	\$100	Daily
Inflatable Boat + Motor	\$250	Daily
Kayak/Paddle	\$100	Daily
<b>MARINE SAMPLING EQUIPMENT</b>		
Van Veen	\$150	Daily
Eckman Grab	\$50	Daily
Ponar Grab	\$50	Daily
METER CTD-10 Sensor and METER EM60G Logger	\$400	Monthly
SeaTech Transmissometer	\$50	Daily
Teledyne RDI Stream Pro ADCP	\$250	Daily
<b>MS4 SAMPLERS / FLOW METERS</b>		
Continuous Receiving Water Monitoring Site. Equipment lease includes equipment enclosure, autosampler, flow meter, level sensor, rain gauge, solar panels, cellular modem, and two marine batteries.	\$7,500	Year
Auto Sampler	\$250	Daily
MS4 Flow Meter	\$150/\$300/\$3,500	Day/Month/Year
Knack Box	\$50	Monthly
Rain Gauge	\$25	Daily
Remote Pump	\$50	Daily
HOB0 Level Logger	\$75/\$150	Weekly/Monthly
YSI 6920, or YSI Pro DSS	\$250	Daily
Hach Turbidity Meter	\$75	Daily
Sondtec 3D Flow Tracker	\$100	Daily
Marsh McBirney Flo-Mate	\$100	Daily
Portable Peristaltic Sampler	\$50	Daily
<b>OTHER FIELD EQUIPMENT</b>		
Field Sample Kit (H&S and sampling tools)	\$75	Daily
4 gas meter/Personal Gas Meter/tripod/harness/ ventilator	\$450	Daily
Dewalt Tripod + LaserMark Self-Leveling Rotary Laser	\$50	Daily
GPS	\$25	Daily
Laser Range Finder	\$25	Daily
Weather Station with Logger	\$50/\$150/\$350	Day/Week/Month
Wind Meter (hand-held)	\$10	Daily

Other equipment provided on quote based on specific task order needs.

## ATTACHMENT A LABORATORY RATES

PHYSIS	
Aqueous	Cost/sample
Total Dissolved Solids (TDS)	\$ 42
Ammonia as N	\$ 42
Dissolved Organic Carbon (DOC)	\$ 72
Dissolved Orthophosphate as P	\$ 42
Methylene Blue Active Substances (MBAS)	\$ 72
Nitrate as N	\$ 42
Nitrite as N	\$ 42
Sulfate	\$ 42
Total Hardness as CaCO <sub>3</sub>	\$ 60
Total Kjeldahl Nitrogen (TKN)	\$ 66
Total Organic Carbon (TOC)	\$ 66
Total Phosphorus	\$ 66
Total Suspended Solids (TSS)	\$ 42
Total & Dissolved Trace Metals EPA 200.8	\$ 270
Total & Dissolved Mercury EPA 1631E (ultra-low level)	\$ 180
Organophosphate Pesticides (OPPs)	\$ 306
Synthetic Pyrethroids	\$ 330
Total Alkalinity	\$ 48
Chloride	\$ 42
Dissolved Orthophosphate as P	\$ 42
Sediment	Cost/sample
Synthetic Pyrethroids	\$ 330
Fipronil & Degradates	\$ 294
Particle Size Distribution	\$ 180
Percent Solids	\$ 42
Total Organic Carbon (TOC)	\$ 114
Biological	Cost/sample
Chlorophyll-a	\$ 102
Algal Biomass Determination by Ash-free Dry Weight	\$ 102
Support Services	Cost/sample
Custom EDD in CEDEN/SCCWRP Format (per report)	\$ 90
Sample Pickup & Delivery (per hour roundtrip)	\$ 90
After Hours Sample Pickup & Delivery (per hour roundtrip, 5pm-8am and weekends)	\$ 130

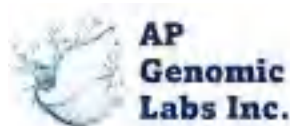
Isotech	
Aqueous	Cost/sample
<sup>2</sup> H/ <sup>1</sup> H and <sup>18</sup> O/ <sup>16</sup> O	\$ 59



## Analytical Service Quotation

### 1. Service Fees

Code	Description	Unit	Unit Price
<b>A. Environmental DNA Testing</b>			
<b>A01</b>	qPCR, sample filter, target-specific quantification	Per analysis	\$50.00
<b>B. Molecular Source Tracking</b>			
<b>B00</b>	qPCR water sample, initial assay	Per analysis	\$208.00
<b>B01</b>	qPCR sample filter, initial assay	Per analysis	\$175.00
<b>B02</b>	qPCR, DNA extract, initial assay	Per analysis	\$110.00
<b>B03</b>	qPCR, DNA extract, additional assay	Per analysis	\$95.00
<b>B04</b>	qPCR, sample filter, simplified test, up to 4 assays, 10 samples minimum per batch	Per sample	\$130.00
<b>B09</b>	ddPCR water sample, initial assay	Per analysis	\$385.00
<b>B10</b>	ddPCR sample filter, initial assay	Per analysis	\$349.00
<b>B11</b>	ddPCR, DNA extract, initial assay	Per analysis	\$290.00
<b>B12</b>	ddPCR, DNA extract, additional assay	Per analysis	\$200.00
<b>C. Pathogen Testing</b>			
<b>C00</b>	qPCR water sample, initial assay	Per analysis	\$265.00
<b>C01</b>	qPCR sample filter, initial assay	Per analysis	\$225.00
<b>C02</b>	qPCR, DNA extract, initial assay (completed RT)	Per analysis	\$160.00
<b>C03</b>	qPCR, DNA/RNA extract, additional assay	Per analysis	\$95.00
<b>C09</b>	ddPCR water sample, initial assay	Per analysis	\$455.00
<b>C10</b>	ddPCR sample filter, initial assay	Per analysis	\$415.00
<b>C11</b>	ddPCR, RNA extract, initial assay (completed RT)	Per analysis	\$320.00
<b>C12</b>	ddPCR, RNA extract, additional assay	Per analysis	\$250.00

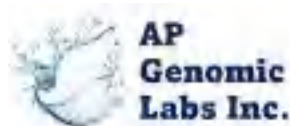


## Analytical Service Quotation

Code	Description	Unit	Unit Price
<b>D. Cyanobacteria Testing</b>			
Total Cyanobacteria Quantification			
<b>D01</b>	From water sample	Per sample	\$134.00
<b>D02</b>	From filter sample	Per sample	\$99.00
Toxin Gene Quantification [microcystin & nodularin (mycE/ndaF), cylindrospermospin (cyrA), and saxitoxin gene (sxtA)]			
<b>D10</b>	Concurrently tested with D01 or D02	Per sample	\$62.00
<b>D11</b>	Tested based on results from D01 or D02 (subsequently)	Per sample	\$110.00
<b>D12</b>	From water sample (without D01 or D02)	Per sample	\$140.00
<b>D13</b>	From filter sample (without D01 or D02)	Per sample	\$104.00
<b>E. Additional Lab Services</b>			
<b>E01</b>	Additional Sample Filtration	Per filtration	\$47.00
<b>E02</b>	Additional DNA Extraction	Per extraction	\$51.00
<b>E03</b>	PMA treatment prior to qPCR analysis	Per sample	\$69.00
<b>F. Other Services</b>			
<b>F01</b>	Field Pump Rental	Per week	\$80.00
<b>F02</b>	Field Filtration Supplies (MST)	Per sample	\$20.00
<b>F10</b>	CEDEN data file	Per sample batch <sup>A</sup>	\$45.00
<b>F20</b>	Courier Service (time & mileage)		
	Courier Service (time)	Per hour	\$75.00
	Courier Service (mileage) <sup>B</sup>	Per mile	\$0.67

<sup>A</sup> Sample batch: set of samples received at the laboratory at the same time and reported on the same lab report (up to 50 samples)

<sup>B</sup> federal mileage rate at the time of service



## Analytical Service Quotation

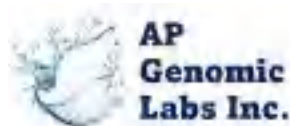
### 2. Assay Lists

#### Endangered Species

Assay Code	Target	Description	Assay Name
ESOT1	Chinook Salmon	<i>Oncorhynchus tshawytscha</i>	CKCO3
ESOK1	Coho Salmon	<i>Oncorhynchus kisutch</i>	MH1
ESOM1	Steelhead Trout	<i>Oncorhynchus mykiss</i>	COI-OM
ESHT1	Delta Smelt	<i>Hypomesus transpacificus</i>	CytB-Htr
ESABN	Western Toad & Amargosa Toad	<i>Anaxyrus boreas</i> & <i>Anaxyrus nelsoni</i>	Cytb-WT
ESANC	Winged Floater & California Floater	<i>Anodonta nuttalliana</i> & <i>Anodonta californiensis</i>	AnuCOI2
ESAO1	Oregon Floater	<i>Anodonta oregonensis</i>	AorCOI
ESGA1	Western Ridged Mussel	<i>Gonidea angulata</i>	GanCOI2

#### Invasive Species

Assay Code	Target	Description	Assay Name
ISDP1	Zebra Mussel	<i>Dreissena polymorpha</i>	ZEBCYT
ISDR1	Quagga Mussel	<i>Dreissena rostriformis</i>	DREQM
ISDPR	Zebra/Quagga Mussel	<i>Dreissena polymorpha</i> and <i>Dreissena rostriformis</i>	DRE16S



## Analytical Service Quotation

### Microbial Source Tracking

Assay Code	Source	Target Organism	Assay Name
MSGFD	Avian	Helicobacter	Avian GFD
MSBP1	Beaver	<i>Bacteroidales</i>	BeaPol01
MSDBT	Dog	<i>Bacteroidales</i>	DogBact
MSBCN	Dog	<i>Bacteroidales</i>	BacCan
MSD37	Dog	<i>Lachnospiraceae</i>	DG37
MSGL2	Gull/Seabirds	<i>Catellibacillus marimammalium</i>	Gull2
MSCG1	Goose (Canadian)	<i>Bacteroidales</i>	CGOF1-Bac
MSHBT	Horse	<i>Bacteroidales</i>	HorseBact
MSHF1	Human	<i>Bacteroidales</i>	HF183/BacR287
MSLN3	Human	<i>Lachnospiraceae</i>	Lachno3
MSQ64	Human	crAssphage	CPQ_064
MSPMM	Human	Pepper Mild Mottle Virus	PMMoV
MSPG2	Pig	<i>Bacteroidales</i>	Pig2Bac
MSR2B	Ruminant	<i>Bacteroidales</i>	Rum2Bac
MSBCR	Ruminant	<i>Bacteroidales</i>	BacR
MSCM2	Cow	<i>Bacteroidale</i>	CowM2
MSGB3	Universal	<i>Bacteroidales</i>	GenBac3

### Pathogens

Assay Code	Target	Specifics	Assay Name
PTHAV	Human Adenovirus	Includes serotypes A-F	HAV (A-F)
PTCS1	<i>Campylobacter</i> Spp.	Includes <i>C. jejuni</i> , <i>C. coli</i> , <i>C. lari</i>	CampySpp (3)
PTCS2	<i>Campylobacter</i> Spp.	Includes <i>C. jejuni</i> , <i>C. coli</i> , <i>C. lari</i> , <i>C. upsaliensis</i> , <i>C. helveticus</i> , <i>C. hyointestinalis</i>	CampySpp (6)
PTCJ1	<i>Campylobacter jejuni</i>	Specific for <i>Campylobacter jejuni</i>	C.jejuni
PTCC1	<i>Campylobacter coli</i>	Specific for <i>Campylobacter coli</i>	C.coli
PTCL1	<i>Campylobacter lari</i>	Specific for <i>Campylobacter lari</i>	C.lari
PTCS1	<i>Cryptosporidium</i> Spp.	<i>Cryptosporidium</i> species	COWPP702
PTGS1	<i>Giardia</i> Spp.	<i>Giardia</i> species	β Giardin P241
PTHEV	Human Enterovirus	–	EV1
PTHN1	Human Norovirus	Genotype I	HNoVG1
PTHN2	Human Norovirus	Genotype II	HNoVGII
PTSS1	<i>Salmonella</i> Spp.	<i>Salmonella</i> species, targets ttr gene	SalmSpp (ttr)
PTSS2	<i>Salmonella</i> Spp.	<i>Salmonella</i> species, targets invA gene	SalmSpp (InvA)
PTSSV	<i>Salmonella</i> Spp.	Viable <i>Salmonella</i> species	SalmSpp (InvA_viab)





## Analytical Service Quotation

### 3. Additional Information

#### Environmental DNA Testing

Per routine testing, sample filters are extracted, and DNA extract is tested in duplicates for the target species. Tests include positive target controls; negative extraction controls and no template qPCR controls (NTCs).

#### Microbial Source Tracking

Testing for microbial source tracking (MST) assays is performed according to US-EPA and MIQE guidelines. Testing of filters includes extraction using the GeneRite extraction kit, testing of sample process controls (salmon sperm DNA) and inhibition controls, positive target controls (i.e., standard curve for qPCR), negative extraction and no template PCR controls (NTCs), and testing of sample extract in triplicates.

The simplified test (B04) is intended for screening well-known sampling areas. Sampling process controls and inhibition controls are not performed, and sample extracts are tested in duplicates.

#### Pathogen Testing

In addition to tests performed for MST assays, we include an RNA process control in case of RNA assays at the extraction stage. Sample processing is performed using applicable extraction methods and robust reverse transcription methods.

#### Assay List

We are continuously adding new assays. Please inquire if you are missing a specific assay in the list above.

#### Field Filtration

The field filtration pump is a battery-powered small filtration unit for use with PALL micro funnels. It can easily be operated on any flat surface, such as the back of a truck or a folding table. The pump comes in a sturdy case with a charging cable. The filtration of clear samples takes about 5 minutes. Times may vary depending on solids content. The rental duration is counted between the day of receipt at the client (per FedEx) and the day of return at AP Genomic Labs Inc. Please reserve a pump early, as pumps are limited and are provided on a first-come, first-serve basis.

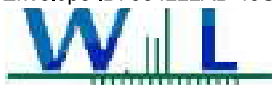
Field filtration supplies (including micro funnels, PBS wash solution, and zip lock bags). A box for the return of filters on dry ice (dry ice not included) can be provided on request.



# City of Carlsbad

## As-needed Water Quality Monitoring & Reporting

Weck Laboratories, Inc.  
14859 Clark Ave.  
Industry, CA 91745  
626-336-2139  
[www.wecklabs.com](http://www.wecklabs.com)

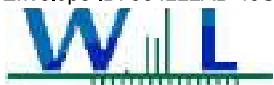


City of Carlsbad  
As-needed Water Quality  
Monitoring Reporting

PSA25-3737CA  
Valid through 2029

## Fee Schedule

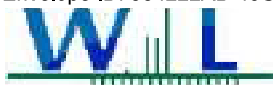
Matrix	Parameters	Method	Unit Price
Water	Chromium, Trivalent by Calculation	varies	\$10.00
Water	Hardness, Total	varies	\$40.00
Water	Chloride	EPA 300.0	\$30.00
Water	Fluoride	EPA 300.0	\$30.00
Water	Sulfate	EPA 300.0	\$30.00
Water	Alkalinity, Full List	SM 2320B	\$40.00
Water	Alkalinity, Total	SM 2320B	\$30.00
Water	Ammonia-N	EPA 350.1	\$40.00
Water	Chemical Oxygen Demand	EPA 410.4	\$45.00
Water	Color	SM 2120B	\$20.00
Water	Cyanide, Total	EPA 335.4	\$50.00
Water	Dissolved Inorganic Carbon	SM 5310B	\$60.00
Water	Dissolved Organic Carbon	SM 5310B	\$60.00
Water	Dissolved Oxygen	SM 4500O-H	\$30.00
Water	MBAS - Surfactants	SM 5540C	\$45.00
Water	Nitrate-N	EPA 353.2	\$35.00
Water	Nitrite-N	EPA 353.2	\$35.00
Water	NO2+NO3-N	EPA 353.2	\$45.00
Water	Orthophosphate-P	EPA 365.3	\$40.00
Water	pH	SM 4500H+-B	\$15.00
Water	Phosphorus, Total as P	EPA 365.1	\$45.00
Water	Specific Conductance (EC)	SM 2510B	\$25.00
Water	Sulfide, Total	SM 4500S2-D	\$50.00
Water	Sulfite	SM 4500SO3-B	\$50.00
Water	Total Dissolved Solids	SM 2540C	\$30.00
Water	Total Kjeldahl Nitrogen	EPA 351.2	\$80.00
Water	Organic Nitrogen	varies	\$10.00
Water	Total Nitrogen by calculation	varies	\$10.00
Water	Total Organic Carbon	SM 5310B	\$50.00
Water	Total Suspended Solids	SM 2540D	\$30.00
Water	Turbidity	EPA 180.1	\$25.00
Water	Chromium, Hexavalent	EPA 218.6	\$105.00
Water	Aluminum	EPA 200.8	\$20.00
Water	Aluminum, dissolved	EPA 200.8	\$20.00
Water	Antimony	EPA 200.8	\$20.00



City of Carlsbad  
As-needed Water Quality  
Monitoring Reporting

PSA25-3737CA  
Valid through 2029

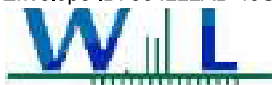
Matrix	Parameters	Method	Unit Price
Water	Antimony, dissolved	EPA 200.8	\$20.00
Water	Arsenic	EPA 200.8	\$20.00
Water	Arsenic, dissolved	EPA 200.8	\$20.00
Water	Barium	EPA 200.8	\$20.00
Water	Barium, dissolved	EPA 200.8	\$20.00
Water	Beryllium	EPA 200.8	\$20.00
Water	Beryllium, dissolved	EPA 200.8	\$20.00
Water	Cadmium	EPA 200.8	\$20.00
Water	Cadmium, dissolved	EPA 200.8	\$20.00
Water	Calcium	EPA 200.7	\$20.00
Water	Chromium	EPA 200.8	\$20.00
Water	Chromium, dissolved	EPA 200.8	\$20.00
Water	Cobalt	EPA 200.8	\$20.00
Water	Cobalt, dissolved	EPA 200.8	\$20.00
Water	Copper	EPA 200.8	\$20.00
Water	Copper, dissolved	EPA 200.8	\$20.00
Water	Iron	EPA 200.7	\$20.00
Water	Iron, dissolved	EPA 200.7	\$20.00
Water	Lead	EPA 200.8	\$20.00
Water	Lead, dissolved	EPA 200.8	\$20.00
Water	Magnesium	EPA 200.7	\$20.00
Water	Manganese	EPA 200.8	\$20.00
Water	Manganese, dissolved	EPA 200.8	\$20.00
Water	Mercury	EPA 245.1	\$45.00
Water	Mercury, dissolved	EPA 245.1	\$45.00
Water	Metals, CTR	EPA 200.8	\$240.00
Water	Molybdenum	EPA 200.8	\$20.00
Water	Molybdenum, dissolved	EPA 200.8	\$20.00
Water	Nickel	EPA 200.8	\$20.00
Water	Nickel, dissolved	EPA 200.8	\$20.00
Water	Phosphorus	EPA 200.7	\$35.00
Water	Phosphorus, dissolved	EPA 200.7	\$35.00
Water	Selenium	EPA 200.8	\$20.00
Water	Selenium, dissolved	EPA 200.8	\$20.00
Water	Silver	EPA 200.8	\$20.00
Water	Silver, dissolved	EPA 200.8	\$20.00
Water	Sodium	EPA 200.7	\$20.00



City of Carlsbad  
As-needed Water Quality  
Monitoring Reporting

PSA25-3737CA  
Valid through 2029

Matrix	Parameters	Method	Unit Price
Water	Thallium	EPA 200.8	\$20.00
Water	Thallium, dissolved	EPA 200.8	\$20.00
Water	Vanadium	EPA 200.8	\$20.00
Water	Vanadium, dissolved	EPA 200.8	\$20.00
Water	Zinc	EPA 200.8	\$20.00
Water	Zinc, dissolved	EPA 200.8	\$20.00
Water	Mercury, Diss, low-level	EPA 1631E	\$125.00
Water	Mercury, total, low-level	EPA 1631E	\$125.00
Water	Metals Digestion Fee	[TRACK]	\$20.00
Water	E.Coli	SM 9223B	\$45.00
Water	Enterococcus - Enterolert	Enterolert	\$100.00
Water	Fecal Coliform 3 dilutions	SM 9223B	\$45.00
Water	Total & Fecal Coliforms 3 dilutions	SM 9221B/E	\$100.00
Water	Total Coliforms by Enumeration 3 dilutions	SM 9221B	\$60.00
Water	OC Pesticides/PCBs Low-Level	EPA 608.3	\$190.00
Water	Pyrethroid Pesticides by GC/MS/MS	EPA 8270M	\$350.00
Water	Semivolatile Organic Compounds	EPA 8270C	\$300.00
Water	Semivolatile Organics Compounds	EPA 625.1	\$300.00
Water	OP Pesticides, low-level	EPA 625.1	\$350.00
Water	PAHs, low-level by GC/MS/MS	EPA 625.1	\$400.00
Water	Sub Dioxin 2378TCDD	EPA 1613B	\$450.00
Water	Sub EPA Method 100.2 (Long Fibers >10 microns)	EPA 100.2	\$220.00



City of Carlsbad  
As-needed Water Quality  
Monitoring Reporting

PSA25-3737CA  
Valid through 2029

Other Fees	Percent	Unit Rate
Rush Surcharges (work days)		
One Day	200	
Two Day	100	
Three Day	75	
Four-Five Day	50	
<10 Day	25	
Afterhours - Rain Event Standby flat fee		\$400.00
Afterhours - Weekdays 5:30 PM to 9 PM or 6 AM to 8 AM		\$300.00
Afterhours - Weekends/Holidays 8 AM to 5:30 PM		\$600.00
Asbestos - EPA 100.2 extra grid opening (each)		\$10.00
Asbestos EPA 100.2 Ozone Treatment		\$90.00
Courier - Sample Pick-up (business days)		\$275.00
Courier - Dry run		\$150.00
EDD - CEDEN		\$40.00
Microbiology - Each extra dilution		\$15.00
Preparation - Filtration, dissolved metals		\$20.00

Comments
Afterhours - no samples received between 9 PM and 6 AM
Field Blanks, Duplicates and Trip Blanks are billed same as samples
Courier services must be prescheduled and are based upon availability
All microbiology samples must be prescheduled and arrive with a minimum of 2 hours of holding time remaining



Alpha Analytical Laboratories, Inc. email: [clientservices@alpha-labs.com](mailto:clientservices@alpha-labs.com)  
 Corporate: 208 Mason Street | Ukiah, CA 95482 | T: 707-468-0401 | F: 707-468-5267 | ELAP# 1551

## Analytical Services Quotation

**Contact:** Michelle Mattson  
**Client:** NV5  
**Address:** 15092 Avenue of Science, Suite 200  
 San Diego, CA 92128  
**Phone:** (760) 717-3010  
**Project:** RFQ25-3437CA - City of Carlsbad

**Quoted:** 12/9/2024  
**Effective:** 12/09/24  
**Expires:** 06/30/28

## Pricing Summary

Parameter	Method	Quantity	TAT (days)	Unit Price	Extended Price
<b>Soil</b>					
8081/8082	varies	1	10	\$280.00	\$280.00
8260B Full List	EPA 8260B	1	10	\$180.00	\$180.00
Fipronil SUB PacAg	EPA 8270B	1	10	\$650.00	\$650.00
Moisture, Percent	SM2540G	1	10	\$40.00	\$40.00
Neonicotinoids SUB PacAg	EPA 8321B	1	10	\$650.00	\$650.00
Particle Size Water ASTM D4464 SUB MAI	ASTM D4464	1	21	\$450.00	\$450.00
PFAS Group Chemicals by DoD QSM 5.3 Table	DoD	1	10	\$625.00	\$625.00
Pyrethroid Pesticides SUB McCampbell	EPA 625.1	1	10	\$500.00	\$500.00
Solids, Dry Weight	SM2540G	1	10	\$40.00	\$40.00
TOC-9060 Soil - Sub MAI	EPA 9060	1	10	\$175.00	\$175.00
<b>Water</b>					
614 OPP	EPA 614	1	10	\$200.00	\$200.00
Alkalinity 2320B	SM2320B	1	10	\$30.00	\$30.00
Ammonia as N	SM4500-NH3 G	1	10	\$70.00	\$70.00
As Diss ICP/MS 200.8	EPA 200.8	1	10	\$25.00	\$25.00
As SW ICP/MS 200.8	EPA 200.8	1	10	\$25.00	\$25.00
Bioassay Chronic FH Minnow 100% Effluent	-	1	10	\$1,800.00	\$1,800.00
Bioassay Chronic Green Algae 100% Effluent	-	1	10	\$1,400.00	\$1,400.00
Bioassay Chronic Water Flea 100% Effluent	-	1	10	\$1,900.00	\$1,900.00
Cd Diss ICP/MS 200.8	EPA 200.8	1	10	\$25.00	\$25.00
Cd SW ICP/MS 200.8	EPA 200.8	1	10	\$25.00	\$25.00
Chloride 300.0	EPA 300.0	1	10	\$30.00	\$30.00
Coliform, Total & Fecal SM9221 MTF	varies	1	10	\$95.00	\$95.00
Courier - Weekday Rate	-	1	10	\$65.00	\$65.00

Corporate: 208 Mason Street | Ukiah, CA 95482 | 707-468-0401 | ELAP# 1551  
 Bay Area: 262 Rickenbacker Circle | Livermore, CA 94551 | 925-828-6226 | ELAP# 2728  
 Central Valley: 9090 Union Park Way Suite 113 | Elk Grove, CA 95624 | 916-686-5190 | ELAP# 2922  
 North Bay: 737 Southpoint Blvd Unit D | Petaluma, CA 94954 | 707-769-3128 | ELAP# 2303  
 San Diego: 2722 Loker Avenue West Suite A | Carlsbad, CA 92010 | 760-930-2555 | ELAP# 3055  
 Los Angeles: 1230 E. 223rd Street Suite 205 | Carson, CA 90745 | 424-267-5032 | ELAP# 3091



Alpha Analytical Laboratories, Inc. email: clientservices@alpha-labs.com  
Corporate: 208 Mason Street | Ukiah, CA 95482 | T: 707-468-0401 | F: 707-468-5267 | ELAP# 1551

## Analytical Services Quotation

**Contact:** Michelle Mattson  
**Client:** NV5  
**Address:** 15092 Avenue of Science, Suite 200  
San Diego, CA 92128  
**Phone:** (760) 717-3010  
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## Pricing Summary

Parameter	Method	Quantity	TAT (days)	Unit Price	Extended Price
Cr Diss ICP/MS 200.8	EPA 200.8	1	10	\$25.00	\$25.00
Cr Total ICP/MS 200.8	EPA 200.8	1	10	\$25.00	\$25.00
Cu Diss ICP/MS 200.8	EPA 200.8	1	10	\$25.00	\$25.00
Cu SW ICP/MS 200.8	EPA 200.8	1	10	\$25.00	\$25.00
DOC-SM5310	SM5310C	1	10	\$55.00	\$55.00
E. coli by SM9223	SM9223B	1	10	\$55.00	\$55.00
Enterococci by Enterolert	Enterolert	1	10	\$60.00	\$60.00
Fe Diss ICP 200.7	EPA 200.7	1	10	\$25.00	\$25.00
Fe Total ICP 200.7	EPA 200.7	1	10	\$25.00	\$25.00
Fecal Coliform by SM9223	SM9223B	1	10	\$55.00	\$55.00
Filtration	-	1	10	\$20.00	\$20.00
Handling & Disposal	-	1	10	\$5.00	\$5.00
Hardness, Total	varies	1	10	\$65.00	\$65.00
Hg Diss CVAA 245.1	EPA 245.1	1	10	\$65.00	\$65.00
Hg Total CVAA 245.1	EPA 245.1	1	10	\$65.00	\$65.00
MBAS- SM5540C	SM5540C	1	10	\$70.00	\$70.00
Ni Diss ICP/MS 200.8	EPA 200.8	1	10	\$25.00	\$25.00
Ni SW ICP/MS 200.8	EPA 200.8	1	10	\$25.00	\$25.00
Nitrogen, Total Calc	Calculation	1	10	\$10.00	\$10.00
NO2+NO3 as N SM4500-NO3 F	SM4500-NO3 F	1	10	\$55.00	\$55.00
Orthophosphate as P 300.0	EPA 300.0	1	10	\$30.00	\$30.00
Pb Diss ICP/MS 200.8	EPA 200.8	1	10	\$25.00	\$25.00
Pb SW ICP/MS 200.8	EPA 200.8	1	10	\$25.00	\$25.00
Phosphorus-SM4500	SM4500-P F	1	10	\$50.00	\$50.00
SD Overtime Fee - Analysis	-	1	10	\$125.00	\$125.00
SD Overtime Fee - WO Login	-	1	10	\$125.00	\$125.00

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Los Angeles: 1230 E. 223rd Street Suite 205 | Carson, CA 90745 | 424-267-5032 | ELAP# 3091





Analytical Services Quotation

**Contact:** Michelle Mattson

**Client:** NV5

**Address:** 15092 Avenue of Science, Suite 200  
San Diego, CA 92128

**Phone:** (760) 717-3010

**Project:** RFQ25-3437CA - City of Carlsbad

**Quoted:** 12/9/2024

**Effective:** 12/09/24

**Expires:** 06/30/28

Pricing Summary

Parameter	Method	Quantity	TAT (days)	Unit Price	Extended Price
Se Diss ICP/MS 200.8	EPA 200.8	1	10	\$25.00	\$25.00
Se SW ICP/MS 200.8	EPA 200.8	1	10	\$25.00	\$25.00
Solids, TDS-SM2540C	SM2540C	1	10	\$45.00	\$45.00
Solids, TSS-SM2540D	SM2540D	1	10	\$45.00	\$45.00
Sulfate 300.0	EPA 300.0	1	10	\$30.00	\$30.00
TI Diss ICP/MS 200.8	EPA 200.8	1	10	\$25.00	\$25.00
TI Total ICP/MS 200.8	EPA 200.8	1	10	\$25.00	\$25.00
TOC-SM5310 Water	SM5310C	1	10	\$55.00	\$55.00
Total Kjeldahl Nitrogen	EPA 351.2	1	10	\$55.00	\$55.00
Turbidity	SM2130B	1	10	\$30.00	\$30.00
Zn Diss ICP/MS 200.8	EPA 200.8	1	10	\$25.00	\$25.00
Zn SW ICP/MS 200.8	EPA 200.8	1	10	\$25.00	\$25.00
				<b>Bid Total:</b>	<b>\$10,850.00</b>

Jake Keeney  
Project Manager

Hardness, Total consists of:

Ca Total 200.7

Hardness Calc

Mg Total ICP 200.7

Coliform, Total & Fecal SM9221 MTF consists of:

Coliform, Fecal 15

Coliform, Total 15

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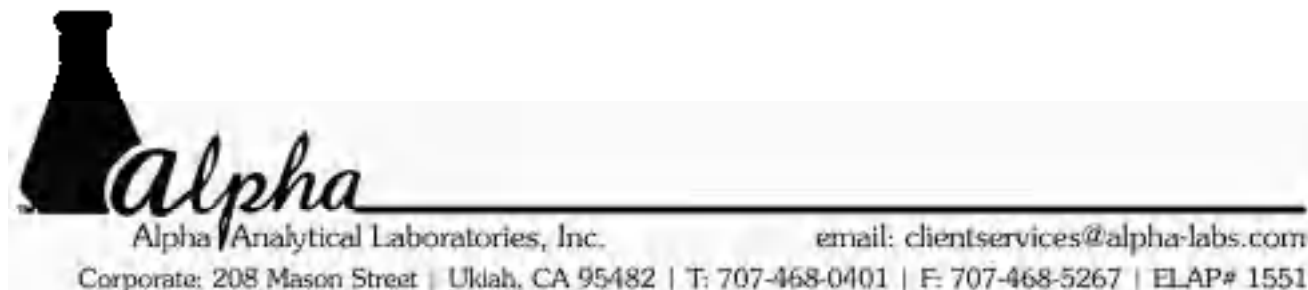
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### Turnaround Pricing

#### 614 OPP by EPA 614

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$200.00	\$210.00	\$220.00	\$230.00	\$240.00	\$250.00	\$280.00
3 days	2 days	1 day	Same Day			
\$300.00	\$350.00	\$400.00	\$600.00			

#### Alkalinity 2320B by SM2320B

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$30.00	\$31.50	\$33.00	\$34.50	\$36.00	\$37.50	\$42.00
3 days	2 days	1 day	Same Day			
\$45.00	\$52.50	\$60.00	\$90.00			

#### Ammonia as N by SM4500-NH3 G

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$70.00	\$73.50	\$77.00	\$80.50	\$84.00	\$87.50	\$98.00
3 days	2 days	1 day	Same Day			
\$105.00	\$122.50	\$140.00	\$210.00			

#### As Diss ICP/MS 200.8 by EPA 200.8

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$25.00	\$26.25	\$27.50	\$28.75	\$30.00	\$31.25	\$35.00
3 days	2 days	1 day	Same Day			
\$37.50	\$43.75	\$50.00	\$75.00			

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### Turnaround Pricing

#### As SW ICP/MS 200.8 by EPA 200.8

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$25.00	\$26.25	\$27.50	\$28.75	\$30.00	\$31.25	\$35.00
3 days	2 days	1 day	Same Day			
\$37.50	\$43.75	\$50.00	\$75.00			

#### Bioassay Chronic FH Minnow 100% Effluent by -

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$1,800.00	\$1,890.00	\$1,980.00	\$2,070.00	\$2,160.00	\$2,250.00	\$2,520.00
3 days	2 days	1 day	Same Day			
\$2,700.00	\$3,150.00	\$3,600.00	\$5,400.00			

#### Bioassay Chronic Green Algae 100% Effluent by -

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$1,400.00	\$1,470.00	\$1,540.00	\$1,610.00	\$1,680.00	\$1,750.00	\$1,960.00
3 days	2 days	1 day	Same Day			
\$2,100.00	\$2,450.00	\$2,800.00	\$4,200.00			

#### Bioassay Chronic Water Flea 100% Effluent by -

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$1,900.00	\$1,995.00	\$2,090.00	\$2,185.00	\$2,280.00	\$2,375.00	\$2,660.00
3 days	2 days	1 day	Same Day			
\$2,850.00	\$3,325.00	\$3,800.00	\$5,700.00			

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### Turnaround Pricing

#### Cd Diss ICP/MS 200.8 by EPA 200.8

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$25.00	\$26.25	\$27.50	\$28.75	\$30.00	\$31.25	\$35.00
3 days	2 days	1 day	Same Day			
\$37.50	\$43.75	\$50.00	\$75.00			

#### Cd SW ICP/MS 200.8 by EPA 200.8

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$25.00	\$26.25	\$27.50	\$28.75	\$30.00	\$31.25	\$35.00
3 days	2 days	1 day	Same Day			
\$37.50	\$43.75	\$50.00	\$75.00			

#### Chloride 300.0 by EPA 300.0

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$30.00	\$31.50	\$33.00	\$34.50	\$36.00	\$37.50	\$42.00
3 days	2 days	1 day	Same Day			
\$45.00	\$52.50	\$60.00	\$90.00			

#### Courier - Weekday Rate by -

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$65.00	\$65.00	\$65.00	\$65.00	\$65.00	\$65.00	\$65.00
3 days	2 days	1 day	Same Day			
\$65.00	\$65.00	\$65.00	\$65.00			

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## Analytical Services Quotation

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## Turnaround Pricing

### Cr Diss ICP/MS 200.8 by EPA 200.8

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$25.00	\$26.25	\$27.50	\$28.75	\$30.00	\$31.25	\$35.00
3 days	2 days	1 day	Same Day			
\$37.50	\$43.75	\$50.00	\$75.00			

### Cr Total ICP/MS 200.8 by EPA 200.8

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$25.00	\$26.25	\$27.50	\$28.75	\$30.00	\$31.25	\$35.00
3 days	2 days	1 day	Same Day			
\$37.50	\$43.75	\$50.00	\$75.00			

### Cu Diss ICP/MS 200.8 by EPA 200.8

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$25.00	\$26.25	\$27.50	\$28.75	\$30.00	\$31.25	\$35.00
3 days	2 days	1 day	Same Day			
\$37.50	\$43.75	\$50.00	\$75.00			

### Cu SW ICP/MS 200.8 by EPA 200.8

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$25.00	\$26.25	\$27.50	\$28.75	\$30.00	\$31.25	\$35.00
3 days	2 days	1 day	Same Day			
\$37.50	\$43.75	\$50.00	\$75.00			

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### Analytical Services Quotation

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### Turnaround Pricing

#### Orthophosphate as P 300.0 by EPA 300.0

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$30.00	\$31.50	\$33.00	\$34.50	\$36.00	\$37.50	\$42.00
3 days	2 days	1 day	Same Day			
\$45.00	\$52.50	\$60.00	\$90.00			

#### DOC-SM5310 by SM5310C

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$55.00	\$57.75	\$60.50	\$63.25	\$66.00	\$68.75	\$77.00
3 days	2 days	1 day	Same Day			
\$82.50	\$96.25	\$110.00	\$165.00			

#### Fe Diss ICP 200.7 by EPA 200.7

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$25.00	\$26.25	\$27.50	\$28.75	\$30.00	\$31.25	\$35.00
3 days	2 days	1 day	Same Day			
\$37.50	\$43.75	\$50.00	\$75.00			

#### Fe Total ICP 200.7 by EPA 200.7

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$25.00	\$26.25	\$27.50	\$28.75	\$30.00	\$31.25	\$35.00
3 days	2 days	1 day	Same Day			
\$37.50	\$43.75	\$50.00	\$75.00			

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### Analytical Services Quotation

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### Turnaround Pricing

#### Filtration by -

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$20.00	\$20.00	\$20.00	\$20.00	\$20.00	\$20.00	\$20.00
3 days	2 days	1 day	Same Day			
\$20.00	\$20.00	\$20.00	\$20.00			

#### Fipronil SUB PacAg by EPA 8270B

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$650.00	\$682.50	\$715.00	\$747.50	\$780.00	\$812.50	\$910.00
3 days	2 days	1 day	Same Day			
\$975.00	\$1,137.50	\$1,300.00	\$1,950.00			

#### Handling & Disposal by -

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$5.00	\$5.00	\$5.00	\$5.00	\$5.00	\$5.00	\$5.00
3 days	2 days	1 day	Same Day			
\$5.00	\$5.00	\$5.00	\$5.00			

#### Hardness, Total by varies

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$65.00	\$68.25	\$71.50	\$74.75	\$78.00	\$81.25	\$91.00
3 days	2 days	1 day	Same Day			
\$97.50	\$113.75	\$130.00	\$195.00			

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### Turnaround Pricing

#### Hg Diss CVAA 245.1 by EPA 245.1

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$65.00	\$68.25	\$71.50	\$74.75	\$78.00	\$81.25	\$91.00
3 days	2 days	1 day	Same Day			
\$97.50	\$113.75	\$130.00	\$195.00			

#### Hg Total CVAA 245.1 by EPA 245.1

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$65.00	\$68.25	\$71.50	\$74.75	\$78.00	\$81.25	\$91.00
3 days	2 days	1 day	Same Day			
\$97.50	\$113.75	\$130.00	\$195.00			

#### Solids, TDS-SM2540C by SM2540C

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$45.00	\$47.25	\$49.50	\$51.75	\$54.00	\$56.25	\$63.00
3 days	2 days	1 day	Same Day			
\$67.50	\$78.75	\$90.00	\$135.00			

#### Moisture, Percent by SM2540G

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$40.00	\$42.00	\$44.00	\$46.00	\$48.00	\$50.00	\$56.00
3 days	2 days	1 day	Same Day			
\$60.00	\$70.00	\$80.00	\$120.00			

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### Turnaround Pricing

#### 8081/8082 by varies

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$280.00	\$294.00	\$308.00	\$322.00	\$336.00	\$350.00	\$392.00
3 days	2 days	1 day	Same Day			
\$420.00	\$490.00	\$560.00	\$840.00			

#### 8260B Full List by EPA 8260B

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$180.00	\$189.00	\$198.00	\$207.00	\$216.00	\$225.00	\$252.00
3 days	2 days	1 day	Same Day			
\$270.00	\$315.00	\$360.00	\$540.00			

#### Neonicotinoids SUB PacAg by EPA 8321B

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$650.00	\$682.50	\$715.00	\$747.50	\$780.00	\$812.50	\$910.00
3 days	2 days	1 day	Same Day			
\$975.00	\$1,137.50	\$1,300.00	\$1,950.00			

#### Ni Diss ICP/MS 200.8 by EPA 200.8

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$25.00	\$26.25	\$27.50	\$28.75	\$30.00	\$31.25	\$35.00
3 days	2 days	1 day	Same Day			
\$37.50	\$43.75	\$50.00	\$75.00			

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#### Ni SW ICP/MS 200.8 by EPA 200.8

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$25.00	\$26.25	\$27.50	\$28.75	\$30.00	\$31.25	\$35.00
3 days	2 days	1 day	Same Day			
\$37.50	\$43.75	\$50.00	\$75.00			

#### Nitrogen, Total Calc by Calculation

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$10.00	\$10.50	\$11.00	\$11.50	\$12.00	\$12.50	\$14.00
3 days	2 days	1 day	Same Day			
\$15.00	\$17.50	\$20.00	\$30.00			

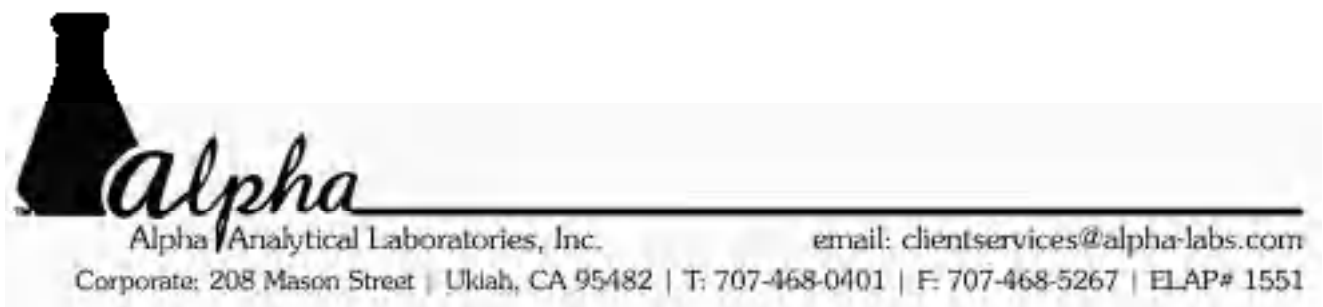
#### NO2+NO3 as N SM4500-NO3 F by SM4500-NO3 F

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$55.00	\$57.75	\$60.50	\$63.25	\$66.00	\$68.75	\$77.00
3 days	2 days	1 day	Same Day			
\$82.50	\$96.25	\$110.00	\$165.00			

#### Particle Size Water ASTM D4464 SUB MAI by ASTM D4464

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$450.00	\$472.50	\$495.00	\$517.50	\$540.00	\$562.50	\$630.00
3 days	2 days	1 day	Same Day			
\$675.00	\$787.50	\$900.00	\$1,350.00			

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Analytical Services Quotation

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**Expires:** 06/30/28

Turnaround Pricing

Pb Diss ICP/MS 200.8 by EPA 200.8

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$25.00	\$26.25	\$27.50	\$28.75	\$30.00	\$31.25	\$35.00
3 days	2 days	1 day	Same Day			
\$37.50	\$43.75	\$50.00	\$75.00			

Pb SW ICP/MS 200.8 by EPA 200.8

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$25.00	\$26.25	\$27.50	\$28.75	\$30.00	\$31.25	\$35.00
3 days	2 days	1 day	Same Day			
\$37.50	\$43.75	\$50.00	\$75.00			

PFAS Group Chemicals by DoD QSM 5.3 Table B-15 by DoD

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$625.00	\$656.25	\$687.50	\$718.75	\$750.00	\$781.25	\$875.00
3 days	2 days	1 day	Same Day			
\$937.50	\$1,093.75	\$1,250.00	\$1,875.00			

Phosphorus-SM4500 by SM4500-P F

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$50.00	\$52.50	\$55.00	\$57.50	\$60.00	\$62.50	\$70.00
3 days	2 days	1 day	Same Day			
\$75.00	\$87.50	\$100.00	\$150.00			

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Turnaround Pricing

Pyrethroid Pesticides SUB McCampbell by EPA 625.1

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$500.00	\$525.00	\$550.00	\$575.00	\$600.00	\$625.00	\$700.00
3 days	2 days	1 day	Same Day			
\$750.00	\$875.00	\$1,000.00	\$1,500.00			

E. coli by SM9223 by SM9223B

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$55.00	\$57.75	\$60.50	\$63.25	\$66.00	\$68.75	\$77.00
3 days	2 days	1 day	Same Day			
\$82.50	\$96.25	\$110.00	\$165.00			

Fecal Coliform by SM9223 by SM9223B

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$55.00	\$57.75	\$60.50	\$63.25	\$66.00	\$68.75	\$77.00
3 days	2 days	1 day	Same Day			
\$82.50	\$96.25	\$110.00	\$165.00			

Coliform, Total & Fecal SM9221 MTF by varies

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$95.00	\$99.75	\$104.50	\$109.25	\$114.00	\$118.75	\$133.00
3 days	2 days	1 day	Same Day			
\$142.50	\$166.25	\$190.00	\$285.00			

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### Turnaround Pricing

#### Enterococci by Enterolert by Enterolert

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$60.00	\$63.00	\$66.00	\$69.00	\$72.00	\$75.00	\$84.00
3 days	2 days	1 day	Same Day			
\$90.00	\$105.00	\$120.00	\$180.00			

#### MBAS- SM5540C by SM5540C

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$70.00	\$73.50	\$77.00	\$80.50	\$84.00	\$87.50	\$98.00
3 days	2 days	1 day	Same Day			
\$105.00	\$122.50	\$140.00	\$210.00			

#### SD Overtime Fee - Analysis by -

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$125.00	\$125.00	\$125.00	\$125.00	\$125.00	\$125.00	\$125.00
3 days	2 days	1 day	Same Day			
\$125.00	\$125.00	\$125.00	\$125.00			

#### SD Overtime Fee - WO Login by -

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$125.00	\$125.00	\$125.00	\$125.00	\$125.00	\$125.00	\$125.00
3 days	2 days	1 day	Same Day			
\$125.00	\$125.00	\$125.00	\$125.00			

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### Turnaround Pricing

#### Solids, TSS-SM2540D by SM2540D

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$45.00	\$47.25	\$49.50	\$51.75	\$54.00	\$56.25	\$63.00
3 days	2 days	1 day	Same Day			
\$67.50	\$78.75	\$90.00	\$135.00			

#### Turbidity by SM2130B

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$30.00	\$31.50	\$33.00	\$34.50	\$36.00	\$37.50	\$42.00
3 days	2 days	1 day	Same Day			
\$45.00	\$52.50	\$60.00	\$90.00			

#### Se Diss ICP/MS 200.8 by EPA 200.8

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$25.00	\$26.25	\$27.50	\$28.75	\$30.00	\$31.25	\$35.00
3 days	2 days	1 day	Same Day			
\$37.50	\$43.75	\$50.00	\$75.00			

#### Se SW ICP/MS 200.8 by EPA 200.8

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$25.00	\$26.25	\$27.50	\$28.75	\$30.00	\$31.25	\$35.00
3 days	2 days	1 day	Same Day			
\$37.50	\$43.75	\$50.00	\$75.00			

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## Turnaround Pricing

### Solids, Dry Weight by SM2540G

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$40.00	\$42.00	\$44.00	\$46.00	\$48.00	\$50.00	\$56.00
3 days	2 days	1 day	Same Day			
\$60.00	\$70.00	\$80.00	\$120.00			

### Sulfate 300.0 by EPA 300.0

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$30.00	\$31.50	\$33.00	\$34.50	\$36.00	\$37.50	\$42.00
3 days	2 days	1 day	Same Day			
\$45.00	\$52.50	\$60.00	\$90.00			

### Total Kjeldahl Nitrogen by EPA 351.2

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$55.00	\$57.75	\$60.50	\$63.25	\$66.00	\$68.75	\$77.00
3 days	2 days	1 day	Same Day			
\$82.50	\$96.25	\$110.00	\$165.00			

### TI Diss ICP/MS 200.8 by EPA 200.8

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$25.00	\$26.25	\$27.50	\$28.75	\$30.00	\$31.25	\$35.00
3 days	2 days	1 day	Same Day			
\$37.50	\$43.75	\$50.00	\$75.00			

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### Turnaround Pricing

#### TI Total ICP/MS 200.8 by EPA 200.8

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$25.00	\$26.25	\$27.50	\$28.75	\$30.00	\$31.25	\$35.00
3 days	2 days	1 day	Same Day			
\$37.50	\$43.75	\$50.00	\$75.00			

#### TOC-9060 Soil - Sub MAI by EPA 9060

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$175.00	\$183.75	\$192.50	\$201.25	\$210.00	\$218.75	\$245.00
3 days	2 days	1 day	Same Day			
\$262.50	\$306.25	\$350.00	\$525.00			

#### TOC-SM5310 Water by SM5310C

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$55.00	\$57.75	\$60.50	\$63.25	\$66.00	\$68.75	\$77.00
3 days	2 days	1 day	Same Day			
\$82.50	\$96.25	\$110.00	\$165.00			

#### Zn Diss ICP/MS 200.8 by EPA 200.8

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$25.00	\$26.25	\$27.50	\$28.75	\$30.00	\$31.25	\$35.00
3 days	2 days	1 day	Same Day			
\$37.50	\$43.75	\$50.00	\$75.00			

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Turnaround Pricing

Zn SW ICP/MS 200.8 by EPA 200.8

10 days	9 days	8 days	7 days	6 days	5 days	4 days
\$25.00	\$26.25	\$27.50	\$28.75	\$30.00	\$31.25	\$35.00
3 days	2 days	1 day	Same Day			
\$37.50	\$43.75	\$50.00	\$75.00			

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Analysis Details								
Analyte	MDL	Reporting Limit	Surrogate %R	Dup RPD	Matrix Spike		Blank Spike	
					%R	RPD	%R	RPD
Metals by EPA 200 Series Methods								
Ca Total 200.7 in Water (EPA 200.7)								
Calcium	0.080	1.0 mg/L		20	70 - 130	20	85 - 115	20
Fe Total ICP 200.7 in Water (EPA 200.7)								
Iron	0.020	0.10 mg/L		20	70 - 130	20	85 - 115	20
Hg Total CVAA 245.1 in Water (EPA 245.1)								
Mercury	0.000060	0.0010 mg/L		20	70 - 130	20	85 - 115	20
Mg Total ICP 200.7 in Water (EPA 200.7)								
Magnesium	0.030	1.0 mg/L		20	70 - 130	20	85 - 115	20
Metals by EPA Method 200.8 ICP/MS								
As SW ICP/MS 200.8 in Water (EPA 200.8)								
Arsenic	0.00040	0.0020 mg/L		20	70 - 130	20	85 - 115	20
Cd SW ICP/MS 200.8 in Water (EPA 200.8)								
Cadmium	0.000060	0.0010 mg/L		20	70 - 130	20	85 - 115	20
Cr Total ICP/MS 200.8 in Water (EPA 200.8)								
Chromium	0.40	0.50 ug/L		20	70 - 130	20	85 - 115	20
Cu SW ICP/MS 200.8 in Water (EPA 200.8)								
Copper	0.000400	0.00600 mg/L		20	70 - 130	20	85 - 115	20
Ni SW ICP/MS 200.8 in Water (EPA 200.8)								
Nickel	0.00030	0.010 mg/L		20	70 - 130	20	85 - 115	20

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<b>Pb SW ICP/MS 200.8 in Water (EPA 200.8)</b>							
Lead	0.000060	0.0050 mg/L	20	70 - 130	20	85 - 115	20
<b>Se SW ICP/MS 200.8 in Water (EPA 200.8)</b>							
Selenium	0.00030	0.0050 mg/L	20	70 - 130	20	85 - 115	20
<b>Tl Total ICP/MS 200.8 in Water (EPA 200.8)</b>							
Thallium	0.050	0.10 ug/L	20	70 - 130	20	85 - 115	20
<b>Zn SW ICP/MS 200.8 in Water (EPA 200.8)</b>							
Zinc	0.00200	0.0500 mg/L	20	70 - 130	20	85 - 115	20
<b>Metals (Dissolved) by EPA 200 Series Methods</b>							
<b>Fe Diss ICP 200.7 in Water (EPA 200.7)</b>							
Iron, dissolved	0.050	0.10 mg/L	20	70 - 130	20	85 - 115	20
<b>Hg Diss CVAA 245.1 in Water (EPA 245.1)</b>							
Mercury, dissolved	0.000060	0.0010 mg/L	20	70 - 130	20	85 - 115	20
<b>Metals (Dissolved) by EPA Method 200.8 ICP/MS</b>							
<b>As Diss ICP/MS 200.8 in Water (EPA 200.8)</b>							
Arsenic, dissolved	0.40	0.50 ug/L	20	70 - 130	20	85 - 115	20
<b>Cd Diss ICP/MS 200.8 in Water (EPA 200.8)</b>							
Cadmium, dissolved	0.060	0.10 ug/L	20	70 - 130	20	85 - 115	20
<b>Cr Diss ICP/MS 200.8 in Water (EPA 200.8)</b>							
Chromium, dissolved	0.50	0.50 ug/L	20	70 - 130	20	85 - 115	20
<b>Cu Diss ICP/MS 200.8 in Water (EPA 200.8)</b>							
Copper, dissolved	0.40	0.50 ug/L	20	70 - 130	20	85 - 115	20
<b>Ni Diss ICP/MS 200.8 in Water (EPA 200.8)</b>							

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Nickel, dissolved	0.30	0.50 ug/L	20	70 - 130	20	85 - 115	20
<b>Pb Diss ICP/MS 200.8 in Water (EPA 200.8)</b>							
Lead, dissolved	0.060	0.25 ug/L	20	70 - 130	20	85 - 115	20
<b>Se Diss ICP/MS 200.8 in Water (EPA 200.8)</b>							
Selenium, dissolved	0.30	2.0 ug/L	20	70 - 130	20	85 - 115	20
<b>Tl Diss ICP/MS 200.8 in Water (EPA 200.8)</b>							
Thallium, dissolved	0.050	0.10 ug/L	20	70 - 130	20	85 - 115	20
<b>Zn Diss ICP/MS 200.8 in Water (EPA 200.8)</b>							
Zinc, dissolved	2.0	5.0 ug/L	20	70 - 130	20	85 - 115	20
<b>Conventional Chemistry Parameters by APHA/EPA Methods</b>							
<b>Alkalinity 2320B in Water (SM2320B)</b>							
Bicarbonate Alkalinity as CaCO3	1.0	5.0 mg/L	20				
Carbonate Alkalinity as CaCO3	1.0	5.0 mg/L	20				
Total Alkalinity as CaCO3	1.0	5.0 mg/L	20			90 - 110	
Hydroxide Alkalinity as CaCO3	1.0	5.0 mg/L	20				
<b>Ammonia as N in Water (SM4500-NH3 G)</b>							
Ammonia as N	0.10	0.20 mg/L	20	80 - 120	20	85 - 115	20
<b>DOC-SM5310 in Water (SM5310C)</b>							
Dissolved Organic Carbon	0.200	1.00 mg/L	20	70 - 130	20	85 - 115	20
<b>Hardness Calc in Water (SM2340B)</b>							
Hardness, Total	1.00	5.00 mg/L	20				
<b>Solids, TDS-SM2540C in Water (SM2540C)</b>							
Total Dissolved Solids	5.0	10 mg/L	15			85 - 115	15
<b>Nitrogen, Total Calc in Water (Calculation)</b>							

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Analytical Services Quotation

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Total Nitrogen	0.30	1.0 mg/L					
<b>NO2+NO3 as N SM4500-NO3 F in Water (SM4500-NO3 F)</b>							
Nitrate + Nitrite as N	0.050	0.20 mg/L	15	80 - 120	15	85 - 115	15
<b>Phosphorus-SM4500 in Water (SM4500-P F)</b>							
Phosphorus, total	0.020	0.050 mg/L	20	70 - 130	20	85 - 115	20
<b>MBAS- SM5540C in Water (SM5540C)</b>							
MBAS, calculated as LAS, mw 340	0.030	0.050 mg/L	20	80 - 120	20	80 - 120	20
<b>Solids, TSS-SM2540D in Water (SM2540D)</b>							
Total Suspended Solids	1.0	1.0 mg/L	30			85 - 125	30
<b>Turbidity in Water (SM2130B)</b>							
Turbidity	0.50	1.0 NTU	15			90 - 110	20
<b>Total Kjeldahl Nitrogen in Water (EPA 351.2)</b>							
Total Kjeldahl Nitrogen	0.40	1.0 mg/L	20	90 - 110	20	90 - 110	20
<b>TOC-SM5310 Water in Water (SM5310C)</b>							
Total Organic Carbon	0.200	1.00 mg/L	20	70 - 130	20	85 - 115	20
<b>Moisture, Percent in Soil (SM2540G)</b>							
% Moisture	0.10	0.10 %	20				
<b>Solids, Dry Weight in Soil (SM2540G)</b>							
% Solids	0.10	0.10 %	20				
<b>Anions by EPA Method 300.0</b>							
<b>Chloride 300.0 in Water (EPA 300.0)</b>							
Chloride	0.10	0.50 mg/L	20	80 - 120	20	90 - 110	20
<b>Orthophosphate as P 300.0 in Water (EPA 300.0)</b>							
Orthophosphate as P	0.050	0.20 mg/L	20	80 - 120	20	90 - 110	20

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Sulfate 300.0 in Water (EPA 300.0)								
Sulfate as SO4	0.20	0.50 mg/L	20	80 - 120	20	90 - 110	20	
Microbiological Parameters by APHA Standard Methods								
E. coli by SM9223 in Water (SM9223B)								
E. Coli	1.0000	1.0000 MPN/100mL						
Coliform, Fecal 15 in Water (SM9221C,E)								
Fecal Coliforms	1.8	1.8 MPN/100mL				100 - 100		
Fecal Coliform by SM9223 in Water (SM9223B)								
Fecal Coliforms	1.0000	1.0000 MPN/100mL				100 - 100		
Coliform, Total 15 in Water (SM9221B,C)								
Total Coliforms	1.8	1.8 MPN/100mL				100 - 100		
Miscellaneous Microbiological Parameters								
Enterococci by Enterolert in Water (Enterolert)								
Enterococci	1.0	1.0 MPN/100mL						
Volatile Organic Compounds by EPA Method 8260B								
8260B Full List in Soil (EPA 8260B)								
Dichlorodifluoromethane	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25	
Chloromethane	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25	
Vinyl chloride	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25	
Bromomethane	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25	
Chloroethane	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25	
Trichlorofluoromethane	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25	
1,1-Dichloroethene	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25	

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1,1,2-Trichlorotrifluoroethane	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25
Tert-butyl alcohol	50	100 ug/kg	25	52 - 173	25	70 - 130	25
Methylene chloride	1.0	2.0 ug/kg	25	60 - 140	25	70 - 130	25
Carbon disulfide	1.2	2.5 ug/kg	25	70 - 130	30	70 - 130	30
Methyl tert-butyl ether	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25
trans-1,2-Dichloroethene	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25
1,1-Dichloroethane	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25
Di-isopropyl ether	1.2	2.5 ug/kg	25	53 - 138	25	70 - 130	25
cis-1,2-Dichloroethene	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25
2,2-Dichloropropane	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25
Chloroform	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25
Bromochloromethane	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25
Tetrahydrofuran	1.2	2.5 ug/kg	25	70 - 130	25	70 - 130	25
1,1,1-Trichloroethane	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25
1,2-Dichloroethane	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25
1,1-Dichloropropene	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25
Carbon tetrachloride	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25
Benzene	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25
Tert-amyl methyl ether	1.2	2.5 ug/kg	25	47 - 146	25	70 - 130	25
Trichloroethene	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25
1,2-Dichloropropane	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25
Dibromomethane	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25
Bromodichloromethane	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25
cis-1,3-Dichloropropene	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25
Toluene	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25
trans-1,3-Dichloropropene	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25
1,1,2-Trichloroethane	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25
1,3-Dichloropropane	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25
Dibromochloromethane	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25

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Tetrachloroethene	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25
1,2-Dibromoethane (EDB)	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25
Chlorobenzene	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25
1,1,1,2-Tetrachloroethane	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25
Ethylbenzene	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25
m,p-Xylene	2.5	5.0 ug/kg	25	60 - 140	25	70 - 130	25
o-Xylene	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25
Styrene	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25
Xylenes (total)	3.2	7.5 ug/kg	25	60 - 140	25	70 - 130	25
Bromoform	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25
1,1,2,2-Tetrachloroethane	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25
Isopropylbenzene	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25
1,2,3-Trichloropropane	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25
Bromobenzene	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25
n-Propylbenzene	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25
2-Chlorotoluene	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25
4-Chlorotoluene	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25
1,3,5-Trimethylbenzene	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25
tert-Butylbenzene	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25
1,2,4-Trimethylbenzene	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25
sec-Butylbenzene	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25
1,3-Dichlorobenzene	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25
p-Isopropyltoluene	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25
1,4-Dichlorobenzene	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25
1,2-Dichlorobenzene	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25
Ethyl tert-butyl ether	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25
n-Butylbenzene	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25
1,2-Dibromo-3-chloropropane	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25
1,2,4-Trichlorobenzene	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25

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Analytical Services Quotation

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Naphthalene	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25
Hexachlorobutadiene	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25
1,2,3-Trichlorobenzene	1.2	2.5 ug/kg	25	60 - 140	25	70 - 130	25
Acetone	50	100 ug/kg	25	60 - 140	25	70 - 130	25
Methyl ethyl ketone	2.5	5.0 ug/kg	25	60 - 140	25	70 - 130	25
Methyl isobutyl ketone	2.5	5.0 ug/kg	25	60 - 140	25	70 - 130	25
surr: Dibromofluoromethane	1.0		70 - 130	25		70 - 130	
surr: Toluene-d8	1.0		70 - 130	25		70 - 130	
surr: Bromofluorobenzene	1.0		70 - 130	25		70 - 130	

Organophosphorus Compounds by EPA Method 614

614 OPP in Water (EPA 614)							
Azinphos methyl	0.40	2.0 ug/L		45 - 122	30	45 - 122	30
Demeton-o	0.20	2.0 ug/L		19 - 125	30	19 - 125	30
Demeton-s	0.30	2.0 ug/L		17 - 127	30	17 - 127	30
Diazinon	0.30	0.50 ug/L		33 - 118	30	33 - 118	30
Disulfoton	0.30	2.0 ug/L		38 - 112	30	38 - 112	30
Ethion	0.80	2.0 ug/L		37 - 120	30	37 - 120	30
Malathion	0.80	2.0 ug/L		38 - 118	30	38 - 118	30
Parathion	0.90	2.0 ug/L		41 - 108	30	41 - 108	30
Parathion-methyl	0.40	2.0 ug/L		38 - 117	30	38 - 117	30
surr: Tributyl phosphate			37 - 115				
surr: Triphenyl phosphate			44 - 145				

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Container Information				
Analysis	Container	Preservation	Volume Required	Hold (Days)
<b>Matrix: Water</b>				
614 OPP	1L Amber- Unpres.	<6°C	2 1L	7
Alkalinity 2320B	500mL Poly Unpres	<6°C	500 ml	14
Ammonia as N	250mL Poly H2SO4	Add H2SO4 to pH<2; <6°C	50 ml	28
As Diss ICP/MS 200.8	250mL Poly Unpres	Filter in Field; HNO3 to pH<2, <6°C	100mL	180
As SW ICP/MS 200.8	250mL Poly HNO3	Add HNO3 to pH<2	100mL	180
Bioassay Chronic FH Minnow 100% Effluent	2.5 gal Cubitainer	<6°C	10 liters	1.5
Bioassay Chronic Green Algae 100% Effluent	2.5 gal Cubitainer	<6°C	10 liters	1.5
Bioassay Chronic Water Flea 100% Effluent	2.5 gal Cubitainer	<6°C	10 liters	1.5
Ca Total 200.7	250mL Poly HNO3	Add HNO3 to pH<2	100mL	180
Cd Diss ICP/MS 200.8	250mL Poly Unpres	Filter in Field; HNO3 to pH<2, <6°C	100mL	180

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#### Container Information

Analysis	Container	Preservation	Volume Required	Hold (Days)
Cd SW ICP/MS 200.8	250mL Poly HNO3	Add HNO3 to pH<2	100mL	180
Chloride 300.0	250mL Poly Unpres	None	50mL	28
Coliform, Fecal 15	100mL Bacti	Dechlorinate, <6°C	250ml	0.34
Coliform, Total 15	100mL Bacti	Dechlorinate, <6°C	250ml	0.34
Cr Diss ICP/MS 200.8	250mL Poly Unpres	Filter in Field; HNO3 to pH<2, <6°C	100mL	180
Cr Total ICP/MS 200.8	250mL Poly HNO3	Add HNO3 to pH<2	100mL	180
Cu Diss ICP/MS 200.8	250mL Poly Unpres	Filter in Field; HNO3 to pH<2, <6°C	100mL	180
Cu SW ICP/MS 200.8	250mL Poly HNO3	Add HNO3 to pH<2	100mL	180
DOC-SM5310	125mL Amber	Filter in field; H3PO4 to pH<2, <6°C	125ml	28
E. coli by SM9223	100mL Bacti	Dechlorinate, <6°C	250ml	0.34
Enterococci by Enterolert	100mL Bacti	<6°C	250ml	0.34

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Container Information				
Analysis	Container	Preservation	Volume Required	Hold (Days)
Fe Diss ICP 200.7	250mL Poly Unpres	Filter in Field; HNO <sub>3</sub> to pH<2, <6°C	100mL	180
Fe Total ICP 200.7	250mL Poly HNO <sub>3</sub>	Add HNO <sub>3</sub> to pH<2	100mL	180
Fecal Coliform by SM9223	100mL Bacti	Dechlorinate, <6°C	250ml	0.34
Filtration	*** DEFAULT CONTAINER ***	<6°C	-	180
Hardness Calc	250mL Poly HNO <sub>3</sub>	Add HNO <sub>3</sub> to pH<2	250ML	180
Hg Diss CVAA 245.1	250mL Poly Unpres	Filter in Field; HNO <sub>3</sub> to pH<2, <6°C	100mL	28
Hg Total CVAA 245.1	250mL Poly HNO <sub>3</sub>	Add HNO <sub>3</sub> to pH<2	100mL	28
MBAS- SM5540C	1L Poly - Unpres	<6°C	1000 ml	2
Mg Total ICP 200.7	250mL Poly HNO <sub>3</sub>	Add HNO <sub>3</sub> to pH<2	100mL	180
Ni Diss ICP/MS 200.8	250mL Poly Unpres	Filter in Field; HNO <sub>3</sub> to pH<2, <6°C	100mL	180
Ni SW ICP/MS 200.8	250mL Poly HNO <sub>3</sub>	Add HNO <sub>3</sub> to pH<2	100mL	180

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#### Container Information

Analysis	Container	Preservation	Volume Required	Hold (Days)
NO <sub>2</sub> +NO <sub>3</sub> as N SM4500-NO <sub>3</sub> F	250mL Poly H <sub>2</sub> SO <sub>4</sub>	<6°C	250 ml	28
Orthophosphate as P 300.0	500mL Poly Unpres	Filter in field, <6°C	500 ml	2
Pb Diss ICP/MS 200.8	250mL Poly Unpres	Filter in Field; HNO <sub>3</sub> to pH<2, <6°C	100mL	180
Pb SW ICP/MS 200.8	250mL Poly HNO <sub>3</sub>	Add HNO <sub>3</sub> to pH<2	100mL	180
Phosphorus-SM4500	250mL Poly H <sub>2</sub> SO <sub>4</sub>	Add H <sub>2</sub> SO <sub>4</sub> to pH<2; <6°C	50mL	28
Se Diss ICP/MS 200.8	250mL Poly Unpres	Filter in Field; HNO <sub>3</sub> to pH<2, <6°C	100mL	180
Se SW ICP/MS 200.8	250mL Poly HNO <sub>3</sub>	Add HNO <sub>3</sub> to pH<2	100mL	180
Solids, TDS-SM2540C	1L Poly - Unpres	<6°C	500ml	7
Solids, TSS-SM2540D	1L Poly - Unpres	<6°C	1000 ml	7
Sulfate 300.0	250mL Poly Unpres	<6°C	100mL	28
Tl Diss ICP/MS 200.8	250mL Poly Unpres	Filter in Field; HNO <sub>3</sub> to pH<2, <6°C	100mL	180

Corporate: 208 Mason Street | Ukiah, CA 95482 | 707-468-0401 | ELAP# 1551  
Bay Area: 262 Rickenbacker Circle | Livermore, CA 94551 | 925-828-6226 | ELAP# 2728  
Central Valley: 9090 Union Park Way Suite 113 | Elk Grove, CA 95624 | 916-686-5190 | ELAP# 2922  
North Bay: 737 Southpoint Blvd Unit D | Petaluma, CA 94954 | 707-769-3128 | ELAP# 2303  
San Diego: 2722 Loker Avenue West Suite A | Carlsbad, CA 92010 | 760-930-2555 | ELAP# 3055  
Los Angeles: 1230 E. 223rd Street Suite 205 | Carson, CA 90745 | 424-267-5032 | ELAP# 3091



Analytical Services Quotation

**Contact:** Michelle Mattson

**Client:** NV5

**Address:** 15092 Avenue of Science, Suite 200  
San Diego, CA 92128

**Phone:** (760) 717-3010

**Project:** RFQ25-3437CA - City of Carlsbad

**Quoted:** 12/9/2024

**Effective:** 12/09/24

**Expires:** 06/30/28

Container Information				
Analysis	Container	Preservation	Volume Required	Hold (Days)
TI Total ICP/MS 200.8	250mL Poly HNO3	Add HNO3 to pH<2	100mL	180
TOC-SM5310 Water	VOA Vial - H3PO4 - Amber	Add H3PO4 to pH<2; <6°C	4 40ml	28
Total Kjeldahl Nitrogen	250mL Poly H2SO4	Add H2SO4 to pH<2; <6°C	100 ml	28
Turbidity	500mL Poly Unpres	<6°C	100 ml	2
Zn Diss ICP/MS 200.8	250mL Poly Unpres	Filter in Field; HNO3 to pH<2, <6°C	100mL	180
Zn SW ICP/MS 200.8	250mL Poly HNO3	Add HNO3 to pH<2	100mL	180
<b>Matrix: Soil</b>				
8260B Full List	Metal Core	<6°C	4oz	14
Fipronil SUB PacAg	8 oz. jar	<6°C	1 8 oz jar	14
Moisture, Percent	4 oz. jar	<6°C	4oz	7
Neonicotinoids SUB PacAg	8 oz. jar	<6°C	1 8 oz jar	14

Corporate: 208 Mason Street | Ukiah, CA 95482 | 707-468-0401 | ELAP# 1551

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**Expires:** 06/30/28

Container Information				
Analysis	Container	Preservation	Volume Required	Hold (Days)
Particle Size Water ASTM D4464 SUB MAI	4 oz. jar	<6°C	4oz	180
PFAS Group Chemicals by DoD QSM 5.3 Table B-15	8 oz. jar	<6°C	6 oz	15
Pyrethroid Pesticides SUB McC Campbell	8 oz. jar	<6°C	1 8 oz jar	3
Solids, Dry Weight	4 oz. jar	<6°C	4oz	7
TOC-9060 Soil - Sub MAI	4 oz. jar	<6°C	4 oz	180

Corporate: 208 Mason Street | Ukiah, CA 95482 | 707-468-0401 | ELAP# 1551

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**MASTER AGREEMENT FOR GEOTECHNICAL SERVICES  
ATLAS TECHNICAL CONSULTANTS, LLC.**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day June, 2025, but effective July 1, 2025, by and between the City of Carlsbad, California, a municipal corporation, ("City"), and Atlas Technical Consultants, LLC., a Delaware limited liability company ("Contractor").

**RECITALS**

- A. City requires the professional services of a consultant that is experienced in geotechnical services.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to geotechnical.
- D. Contractor has submitted a proposal to the city responsive to Request for Qualifications RFO25-3437CA and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, City and Contractor agree as follows:

**1. SCOPE OF WORK**

City retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A", which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective for a period of three (3) years from July 1, 2025, through June 30, 2028. The City Manager may amend the Agreement to extend it for two (2) additional one (1) year(s) periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, City needs, and appropriation of funds by the City Council. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by City and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the City Manager or the Division Director ("Director") as authorized by the City Manager. The City Manager or Director will give allowance for documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight



documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight on the part of Contractor, or delays caused by City inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed five hundred thousand dollars (\$500,000). Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, City shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for City, the City Manager or Director, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

If the City elects to extend the term of the Master Services Agreement, adjustments to the rate schedule may be permitted. Upon receipt of a written request from the Contractor, the City may consider approving a rate schedule increase. Rate schedule increases will be considered for each anniversary of the Agreement effective date after the initial three-year term. An increase to the rate schedule will be calculated based on the proceeding 12-month percentage change in the Consumer Price Index, San Diego Area, for All Urban Customers (CPI-U), as reported by the Bureau of Labor Statistics or 5.0%, whichever is lower. If the CPI-U is a negative number, then the rate schedule will not be adjusted for that year. The Contractor must submit a request and justification to increase the rate schedule at least sixty days prior to the anniversary of the effective date, assuming the City opt to extend the Master Services Agreement. The justification accompanying the written request should detail the rationale for the requested adjustment, and the requested adjustment amount, supported by relevant documentation (e.g., CPI-U or 5.0%, whichever is less). Approval of rate schedule increase by the City must be documented in an amendment to the Agreement.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California

Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

#### **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize the Owner's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. The Contractor is required to create a free web-based Procore user account(s) and utilize web-based training / tutorials (as needed) to become familiar with the system. Unless the Engineer approves otherwise, the Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. The Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of the Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that the Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, RFIs, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

#### **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of City. Contractor will be under control of City only as to the result to be accomplished, but will consult with City as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of City for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. City will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. City will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify City within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which City may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At the City's election, City may deduct the indemnification amount from any balance owing to Contractor.

**9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

**10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of City. If Contractor subcontracts any of the Services, Contractor will be fully responsible to City for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and City. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by City.

**11. OTHER CONTRACTORS**

The City reserves the right to employ other Contractors in connection with the Services.

**12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by the City), indemnify, and hold harmless the City and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation program is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

**13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current

Best's Key Rating of not less than "A-:VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

13.1 Coverages and Limits. Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability (CGL) Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to City's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 The City will be named as an additional insured on Commercial General Liability which shall provide primary coverage to the City.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to City sent by certified mail pursuant to the Notice provisions of this Agreement.



Phone 442-339-2767

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

**19. GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or City will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, City may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If City decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, City may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by City and all work in progress to City at the address contained in this Agreement. City will make a determination of fact based upon the work product delivered to City and of the percentage of work that Contractor has performed which is

usable and of worth to City in having the Agreement completed. Based upon that finding City will determine the final payment of the Agreement.

City may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to City. In the event of termination of this Agreement by either party and upon request of City, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to City. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. City will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, City will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any Agreement claim submitted to City must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to City, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If City seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon City and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of City, which shall not be unreasonably withheld.

**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the City and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract, and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}



CONTRACTOR  
ATLAS TECHNICAL CONSULTANTS, LLC., a  
Delaware limited liability company

CITY OF CARLSBAD, a municipal  
corporation of the State of California

By:

Yashar Hooshvar

(sign here)

By:

Keith Blackburn, Mayor

Yashar Hooshvar, Hub Leader

(print name/title)

ATTEST:

SHERRY FREISINGER, City Clerk

By:

(sign here)

By:

Faviola Medina,  
Director of Constituent & Clerk Services

(print name/title)

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

**Group A**

Chairman,  
President, **or**  
Vice-President

**Group B**

Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, City Attorney

BY: Cindie K. McMahon

**EXHIBIT A**

**SCOPE OF SERVICES AND FEES**

Perform a variety of tasks related to geotechnical services, as outlined in the individual Project Task Descriptions and Fee Allotments (PTD&FA), including but not limited to the following:

- A. Geotechnical Investigations.
- B. Hazardous Material Evaluations.
- C. Materials Testing.
- D. Groundwater Monitoring Well Installations.

Requests for work not listed above must be contracted under separate agreement.

## ATLAS FEE SCHEDULE

RFQ25-3437CA 5. Geotechnical Services

## ATTACHMENT B – MASTER SERVICES AGREEMENT RATE SCHEDULE

Prices valid through 3-year Term of Agreement

**STAFF**

	<u>NAME</u>	<u>TITLE</u>	<u>UNIT</u>	<u>RATE</u>
1	Morteza Mirshekari, PhD, PE	Geotechnical Practice Manager	Hour	\$250
2	Reza Saeedzadeh, PhD, PE, GE	Principal Engineer	Hour	\$250
3	Hisham Nofal, PhD, PE, GE	Principal Engineer	Hour	\$250
4	Erick Aldrich, PE, GE	Principal Engineer	Hour	\$250
5	J. Goodmacher, PG, CEG, CHG	Principal Geologist	Hour	\$250
6	Doug Skinner, PG, CEG	Principal Geologist	Hour	\$250
7	Dale Bodman, PE	Senior Engineer	Hour	\$200
8	Stephan Callas	Project Geophysicist	Hour	\$180
9	Bryan Rall, PG, CEG	Senior Geologist	Hour	\$200
10	Christopher A. Schmidt, P.E.	Senior Engineer	Hour	\$200
11	Nickey Akbariyeh, PE	Senior Engineer	Hour	\$200
12	Jalal Fatemi, PE	Senior Engineer	Hour	\$200
13	Jonathan McGehee, GIT	Project Geologist	Hour	\$180
14	Stephane Dalo, EIT	Staff Engineer	Hour	\$160
15	Kyle Hahn, GIT	Staff Geologist	Hour	\$160
16	Jacob Baker, GIT	Staff Geologist	Hour	\$160
17	Matt Reilly, CAC, CLIA	Building Sciences Technical Practice Manager	Hour	\$190
18	Max Quezada, CAC, CLIA	Building Sciences	Hour	\$160
19	Paul Lowe, CAC, CLIA	Building Sciences	Hour	\$160
20	Noll Valera, CSST, CLST	Building Sciences	Hour	\$160
21	James Choe, CSST, CLCR, CLST	Building Sciences	Hour	\$160
22	Dan Ferguson	Field Services Manager	Hour	\$190
23	Dan Broyles	Field Services Manager	Hour	\$190
24	Austin Hill	Director of Lab Services	Hour	\$190
25	Roger Jimenz	Field Technician	Hour	\$140
26	Raul Tena	Field Technician	Hour	\$140
27	Tony Stewart	Field Technician	Hour	\$140
28	Peter SteinGillette	Field Technician	Hour	\$140
29	Ismael Gonzales	Field Technician	Hour	\$140
30	Chad Bartley	Field Technician	Hour	\$140
31	Cynthia Garcia Ibarra	Drafter	Hour	\$110
32	Jessica Isbell	Administrative Assistant	Hour	\$95
33	Jazmine Martinez	Administrative Assistant	Hour	\$95

## ATLAS FEE SCHEDULE

RFQ25-3437CA 5. Geotechnical Services

## ATTACHMENT B – MASTER SERVICES AGREEMENT RATE SCHEDULE

Prices valid through 3-year Term of Agreement

**SUB-CONSULTANTS**

	<u>NAME/FIRM</u>	<u>TITLE/SERVICE</u>	<u>UNIT</u>	<u>RATE</u>
1	Baja Exploration	CME 75 Drilling Services (up to 4 hours)	Half Day	\$3,630.00
2	Baja Exploration	CME 75 Drilling Services (up to 8 hours)	Full Day	\$4,840.00
3	Baja Exploration	CME 95 Drilling Services (up to 4 hours)	Half Day	\$4,180.00
4	Baja Exploration	CME 95 Drilling Services (up to 8 hours)	Full Day	\$5,500.00
5	Baja Exploration	Limited Access Rig (up to 8 hours)	Full Day	\$4,950.00
6	Baja Exploration	Hand Auger Tech	Hour	\$330.00
7	Baja Exploration	Hollow Stem Auger Drilling Footage	Foot	\$68.00
8	Pacific Drilling	Drill Rig - Truck Mount, Fraste, Mole, Tripod (5-Hour Minimum)	Hour	\$478.00
9	Pacific Drilling	Drill Rig - Large Diameter (5-Hour Minimum)	Hour	\$588.00
10	Pacific Drilling	Overtime Surcharge Per Person	Hour	\$55.00
11	Pacific Drilling	Doubletime Surcharge Per Person	Hour	\$110.00
12	Hudson Safe T Lite	Flagger/Labor Technician (week days up to 8 hours)	Hour	\$132.00
13	Hudson Safe T Lite	Flagger/Labor Technician (8 to 12 hours and weekends)	Hour	\$198.00
14	Hudson Safe T Lite	Traffic Control Equipment (Shoulder/Lane Closure)	Day	\$1,250.00
15	Hudson Safe T Lite	Daily Arrow Board Rental - When Required	Day	\$110.00
16	Hudson Safe T Lite	Weekly Arrow Board Rental - When Required	Week	\$330.00
17	Hudson Safe T Lite	Monthly Arrow Board Rental - When Required	Month	\$990.00
18	Hudson Safe T Lite	Traffic Control Plans 11x17 Non Engineer Stamped	Page	\$330.00
19	Hudson Safe T Lite	Traffic Control Plans 11x17 with Engineer Stamp	Page	\$660.00
20	Eurofins	VOCs + TPHg (8260B) add \$5 if oxygenates are needed	Each	\$115.00
21	Eurofins	TPHd + TPHo (8015M) Diesel Standard	Each	\$55.00
22	Eurofins	TPHd + TPHo (8015M) Diesel and Motor Oil Standards	Each	\$77.00
23	Eurofins	Title 22 Metals (6010B/7471A)	Each	\$104.00
24	Eurofins	Organochlorine Pesticides (8081A)	Each	\$104.00
25	Eurofins	Organophosphorus Pesticides (8141A)	Each	\$176.00
26	Eurofins	Herbicides (8151A)	Each	\$187.00
27	Eurofins	SVOCs/PAH (89270C)	Each	\$170.00
28	Eurofins	PCBs (8082)	Each	\$71.00
29	Eurofins	Asbestos in Soil (PLM) Qualitative	Each	\$63.00
30	Eurofins	Asbestos in Soil (PLM) Quantitative	Each	\$214.00
31	Eurofins	Sample Waste Disposal	Each	\$5.00

ATLAS FEE SCHEDULE

RFQ25-3437CA 5. Geotechnical Services

ATTACHMENT B – MASTER SERVICES AGREEMENT RATE SCHEDULE

Prices valid through 3-year Term of Agreement

LABORATORY TESTING

TEST	RATE
Soil and Aggregate	
California Bearing Ratio	\$515.00
California Impact	\$255.00
Clay Lumps in Aggregate	\$185.00
Cleanness Value	\$245.00
Consolidation	\$245.00
Corrosivity Testing	\$230.00
Crushed Particles	\$185.00
Direct Shear (ASTM D3080)	\$320.00
Durability Factor (Cal 229, ASTM D3744)	\$120.00
Durability Index (Cal 229, ASTM D3744)	\$275.00
Expansion Index (ASTM D4829)	\$220.00
Fineness Modulus (ASTM C136)	\$35.00
Flat & Elongated Pieces (ASTM D4791)	\$215.00
Liquid Limit (Cal 204, ASTM D4318)	\$95.00
Light Weight Pieces	\$215.00
Los Angeles Abrasion (Cal 211, ASTM C131)	\$275.00
Maximum Density – 4" (ASTM D698, D1557)	\$245.00
Maximum Density – 6" (ASTM D698, D1557)	\$270.00
Moisture Content	\$45.00
Natural Density Chunk Sample	\$55.00
Natural Moisture/Density Ring or Core Sample	\$50.00
Organic Impurities	\$115.00
Organic Matter	\$95.00
Percent Finer than #200	\$90.00
pH & Resistivity	\$155.00
Plasticity Index	\$160.00
R-Value	\$340.00
Sand Equivalent	\$110.00
Sieve Analysis	\$135.00
Sieve Analysis with Hydrometer	\$245.00
Soil Cement Compression Strength	\$65.00
Soluble Chlorides	\$80.00
Soluble Sulfate	\$80.00
Soundness 5 Cycles	\$460.00
Specific Gravity Fine or Coarse Aggregate	\$145.00
Asphalt Concrete	
Asphalt Core Specific Gravity	\$85.00
Asphalt Core Specific Gravity Waxed	\$105.00
Emulsion Content	\$220.00
Gyratory Compacted Maximum Specific Gravity	\$430.00

LABORATORY TESTING

TEST	RATE
Asphalt Concrete Continued	
Hamburg Wheel Plant Produced HMA	\$1,105
Hveem Maximum Bulk Specific Gravity	\$370
Hveem & Stabilometer Value	\$490
Ignition Oven Correction Factor	\$310
Ignition Oven Degradation Factor	\$310
Moisture of Asphalt Mixtures (Microwave)	\$65
Optimum Bitumen Content	\$3,750
Percent Bitumen Asphaltic Concrete	\$220
Rice Max Theoretical Specific Gravity AC	\$165
Sieve Analysis Extracted Aggregate	\$115
Stability and Flow	\$430
Stabilometer Value	\$430
Tensile Strength Ratio	\$1,105
Wet Track Abrasion	\$230
Concrete and Masonry	
Concrete/Grout/Mortar Compression	\$35
Concrete Core Compression	\$75
Flex Beam Modulus of Rupture	\$95
Modulus of Elasticity	\$320
Shotcrete Mockup Panel	\$1,275
Shotcrete Panel, 3 Cores Compression	\$360
Shrinkage Hardened Concrete	\$455
Split Tensile Concrete Cylinder	\$95
Absorption Block	\$145
Compression Block Standard	\$185
Efflorescence Block	\$215
Masonry Core Compression	\$65
Masonry Prism Compression	\$185
Modulus of Elasticity (Masonry Prism)	\$310
Mortar Shear Strength	\$125
Metal	
Bolt Assembly Hardness Test	\$95
Bolt Assembly Tensile & Proof Load Test	\$155
Chemical Analysis	\$235
Modulus of Elasticity (Steel)	\$320
Post-Tension Tendon Tensile Testing	\$230
Tensile & Bend Test Structural Steel	\$235
Tensile & Bend Test Reinforcing Steel	\$155
Miscellaneous	
Fire Proofing Density Test	\$100

EXPENSES

DESCRIPTION	COST	%MARKUP
1		
2		

**MASTER AGREEMENT FOR GEOTECHNICAL SERVICES  
ENGEO, INCORPORATED**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day June, 2025, but effective July 1, 2025, by and between the City of Carlsbad, California, a municipal corporation, ("City"), and ENGEO, Incorporated, a California corporation ("Contractor").

**RECITALS**

- A. City requires the professional services of a consultant that is experienced in geotechnical services.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to geotechnical.
- D. Contractor has submitted a proposal to the city responsive to Request for Qualifications RFO25-3437CA and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, City and Contractor agree as follows:

**1. SCOPE OF WORK**

City retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A", which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective for a period of three (3) years from July 1, 2025, through June 30, 2028. The City Manager may amend the Agreement to extend it for two (2) additional one (1) year(s) periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, City needs, and appropriation of funds by the City Council. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by City and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the City Manager or the Division Director ("Director") as authorized by the City Manager. The City Manager or Director will give allowance for documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight

on the part of Contractor, or delays caused by City inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed five hundred thousand dollars (\$500,000). Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, City shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for City, the City Manager or Director, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

If the City elects to extend the term of the Master Services Agreement, adjustments to the rate schedule may be permitted. Upon receipt of a written request from the Contractor, the City may consider approving a rate schedule increase. Rate schedule increases will be considered for each anniversary of the Agreement effective date after the initial three-year term. An increase to the rate schedule will be calculated based on the proceeding 12-month percentage change in the Consumer Price Index, San Diego Area, for All Urban Customers (CPI-U), as reported by the Bureau of Labor Statistics or 5.0%, whichever is lower. If the CPI-U is a negative number, then the rate schedule will not be adjusted for that year. The Contractor must submit a request and justification to increase the rate schedule at least sixty days prior to the anniversary of the effective date, assuming the City opt to extend the Master Services Agreement. The justification accompanying the written request should detail the rationale for the requested adjustment, and the requested adjustment amount, supported by relevant documentation (e.g., CPI-U or 5.0%, whichever is less). Approval of rate schedule increase by the City must be documented in an amendment to the Agreement.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in

the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize the Owner's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. The Contractor is required to create a free web-based Procore user account(s) and utilize web-based training / tutorials (as needed) to become familiar with the system. Unless the Engineer approves otherwise, the Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. The Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of the Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that the Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, RFIs, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

## **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of City. Contractor will be under control of City only as to the result to be accomplished, but will consult with City as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of City for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. City will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. City will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify City within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which City may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At the City's election, City may deduct the indemnification amount from any balance owing to Contractor.



**9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

**10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of City. If Contractor subcontracts any of the Services, Contractor will be fully responsible to City for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and City. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by City.

**11. OTHER CONTRACTORS**

The City reserves the right to employ other Contractors in connection with the Services.

**12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by the City), indemnify, and hold harmless the City and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation program is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

**13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current

Best's Key Rating of not less than "A-:VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

13.1 Coverages and Limits. Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability (CGL) Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to City's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 The City will be named as an additional insured on Commercial General Liability which shall provide primary coverage to the City.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to City sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to City's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to City.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then City will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by City to obtain or maintain insurance and City may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. City reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

14. **BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

15. **ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

16. **OWNERSHIP OF DOCUMENTS**

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of City. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to City. Contractor will have the right to make one (1) copy of the work product for Contractor's records.

17. **COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in City and Contractor relinquishes all claims to the copyrights in favor of City.

18. **NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of City and on behalf of Contractor under this Agreement are:

For City:

Name	<u>Eleida Felix Yackel</u>
Title	<u>Senior Contract Administrator</u>
Dept	<u>Public Works/ Contract Admin</u>
	<u>CITY OF CARLSBAD</u>
Address	<u>1635 Faraday Ave.</u>
	<u>Carlsbad, CA 92008</u>

For Contractor:

Name	<u>Uri Eliahu</u>
Title	<u>President</u>
Address	<u>2633 Camino Ramon, #250</u>
	<u>San Ramon, CA 94583</u>
Phone	<u>925-866-9000</u>
Email	<u>ueliahu@engeo.com</u>

Phone 442-339-2767

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

**19. GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or City will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, City may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If City decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, City may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by City and all work in progress to City at the address contained in this Agreement. City will make a determination of fact based upon the work product delivered to City and of the percentage of work that Contractor has performed which is

usable and of worth to City in having the Agreement completed. Based upon that finding City will determine the final payment of the Agreement.

City may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to City. In the event of termination of this Agreement by either party and upon request of City, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to City. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. City will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, City will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any Agreement claim submitted to City must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to City, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If City seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon City and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of City, which shall not be unreasonably withheld.

**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the City and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract, and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}

CONTRACTOR  
ENGEO, Incorporated., a California  
corporation

CITY OF CARLSBAD, a municipal  
corporation of the State of California

By: Uri Eliahu  
(sign here)

By: \_\_\_\_\_  
Keith Blackburn, Mayor

Uri Eliahu, President  
(print name/title)

ATTEST:  
SHERRY FREISINGER, City Clerk

By: Robert Boeche  
(sign here)

By: \_\_\_\_\_  
Faviola Medina,  
Director of Constituent & Clerk Services

Robert Boeche, Assistant Treasurer  
(print name/title)

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

**Group A**  
Chairman,  
President, **or**  
Vice-President

**Group B**  
Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, City Attorney

BY: Cindie K. McMahon

**EXHIBIT A**

**SCOPE OF SERVICES AND FEES**

Perform a variety of tasks related to geotechnical services, as outlined in the individual Project Task Descriptions and Fee Allotments (PTD&FA), including but not limited to the following:

- A. Geotechnical Investigations.
- B. Hazardous Material Evaluations.
- C. Materials Testing.
- D. Groundwater Monitoring Well Installations.

Requests for work not listed above must be contracted under separate agreement.





## Fee Schedule

The following schedule identifies our proposed key personnel for the City of Carlsbad Master Services Agreement for Consultants RFQ25-3437CA Category: 5 Geotechnical Services, their title, and their corresponding hourly rate in accordance with our 2023 rate schedule.

The use of subconsultants and expenses will be outlined and limited to a 10% markup.

Proposed Staff	Title	Hourly Rate
Taylor Strack, PE, GE	Senior Engineer	\$265
Josef Tootle, PE, GE	Principal	\$365
James Thurber, PG, CEG, CHG	Principal	\$365
Walter Crampton, PE, GE, D.CE	Principal	\$365
Victoria Drake, PE, QSD, ToR	Associate	\$305
Greg Spaulding, PG, CEG, CHG	Senior Geologist	\$265
Kevin McFadden, PE	Senior Engineer	\$265
Emma Griffie, PG	Project Geologist	\$235
Kristie Paul	Senior Laboratory Technician	\$180

Our 2023 rate schedule is attached.



— Expect Excellence —

PSA25-3740CA  
 GEOTECHNICAL  
 ENVIRONMENTAL  
 WATER RESOURCES  
 CONSTRUCTION SERVICES  
 COASTAL/MARINE GEOTECHNICS

## PREFERRED CLIENT FEE SCHEDULE PROFESSIONAL SERVICES

Effective February 2023

President.....	\$465.00 per hour
Principal .....	\$365.00 per hour
Associate .....	\$305.00 per hour
Subject Matter Expert.....	\$400.00 per hour
Senior.....	\$265.00 per hour
Project.....	\$235.00 per hour
Staff.....	\$205.00 per hour
Assistant .....	\$165.00 per hour
Construction Services Manager II .....	\$210.00 per hour*
Construction Services Manager I.....	\$200.00 per hour*
Senior Field Representative II .....	\$176.00 per hour/**
Senior Field Representative I .....	\$157.00 per hour/**
Field Representative.....	\$145.00 per hour/**
Senior Laboratory Technician .....	\$180.00 per hour
Laboratory Technician .....	\$160.00 per hour
Senior GIS Developer.....	\$190.00 per hour
Senior GIS Analyst .....	\$185.00 per hour
GIS Analyst.....	\$175.00 per hour
Senior CAD Specialist .....	\$175.00 per hour
CAD Specialist.....	\$160.00 per hour
Network Administrator .....	\$250.00 per hour
Project Assistant.....	\$145.00 per hour

\* Two-hour minimum portal to portal and cancellations within 24 hours.

\* **OVERTIME RATES:** Rates increased by factor of 1.5 for all hours worked in excess of eight (8) Monday through Friday, and the first eight (8) hours worked on Saturday. Rates increased by factor of 2.0 for all hours worked in excess of twelve (12) Monday through Friday, all hours worked in excess of eight (8) on Saturday and all hours worked on Sunday and holidays.

\*\* For Prevailing Wage projects, increase the hourly rate by \$19.

\*\* Rates increased by factor of 1.25 for night shift hours (hours commencing after 4:00 p.m. or before 4:00 a.m.); rates increased by factor of 1.875 (an additional factor of 1.5) for all night shift hours in excess of eight (8); rates increased by factor 2.5 for all night shift hours worked in excess of twelve (12).

### ADDITIONAL SERVICES OFFERED

In addition to our core services of geotechnical, hydrologic and environmental engineering, including construction-phase testing and observation, ENGEO provides clients with services for establishment and management of Geologic Hazard Abatement Districts (GHAD) and for Entitlement and Permitting Support (EPS). For more information about these services and associated pricing, please contact ENGEO at (925) 866-9000.

### OTHER FEES

- Equipment and materials will be charged in addition to the above hourly rates.
- Outside Consultants, Subcontracted Services and Equipment Rental ..... Cost plus 25%
- Expert Witness, Deposition, Mediation, Arbitration, or Court Appearance (Minimum Charge) ..... \$2,400.00 half day, \$4,800.00 full day

### TERMS

Invoices will be submitted at completion of work or at approximately four week intervals and are due and payable upon receipt. Statements will be issued at monthly intervals. ~~Charges not paid within 30 days of invoice date will accrue a late charge at a rate of 1.5 percent per month. In the event it becomes necessary to commence suit to collect amount due, Client agrees to pay attorney's fees and costs, as the court may deem reasonable until amount is paid.~~ Fees will be applicable for one year from the effective date above; thereafter, fees will be adjusted annually. Our fees will be billed using an invoice format produced by a standardized accounting software package. A more customized itemization of charges and backup data will be provided upon Client's requests, but at additional fees. Final reports may be withheld until outstanding invoices are paid in full.

~~Many risks potentially affect ENGEO by virtue of entering into this agreement to perform services on behalf of client. A principal risk is the potential for human error by ENGEO. For client to obtain the benefit of a fee that includes a nominal allowance for dealing with our liability, client agree to limit ENGEO's liability to Client and all other parties for claims arising out of our performance of the services described in the agreement. The aggregate liability will not exceed \$50,000 (or ENGEO's fee, whichever is greater, but not more than \$1,000,000) for professional acts, errors, or omissions, including attorney's fees and costs that may be awarded to the prevailing party and client agrees to indemnify and hold harmless ENGEO from and against all liabilities in excess of the monetary limit established above.~~

June 24, 2025

Item #6

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# EQUIPMENT AND MATERIALS CHARGES

PSA25-3740CA

DESCRIPTION	COST PER UNIT (\$)	UNIT
Air Content Meter	7.00	hour
Bailers (Disposable)	10.00	each
Coatings Thickness Kit (eg. Fireproofing, Protective Paint)	30.00	hour
Concrete Crack Monitor	20.00	each
Coring Machine	30.00	hour
Double-Ring Infiltrometer	50.00	hour
Electronic Water Level Indicator	5.00	hour
Engineering Analysis Software	45.00	hour
Equipment Transport(er)	100.00	hour
Exploration Equipment (Electric Auger)	50.00	hour
Floor Flatness/Floor Level Equipment	40.00	hour
Generator	15.00	hour
GIS Website Portal Subscriptions	50.00	month
GPS Handheld Device	10.00	hour
Drone Equipment	210.00	hour
Hand Auger and Soil Sampler	15.00	hour
Hydraulic Pull-Test Equipment	25.00	hour
Interface Probe	2.00	hour
Magnetic Particle Test Equipment	25.00	hour
Moisture Content Test Equipment	6.00	hour
Multi-Parameter Water Meter	15.00	hour
pH Meter/Turbidity Meter	10.00	hour
Photo Ionization Detector	20.00	hour
Reinforcing Bar Locator	100.00	hour
Sampling Tubes	10.00	each
Sand Cone Equipment and Material	5.00	hour
Schmidt Hammer	20.00	hour
Seisometer	50.00	hour
Skidmore Wilhelm Bolt Tension Calib.	40.00	hour
Slope Inclinator/Settlement Indicator/VW Readout	50.00	hour
Torque Wrench	15.00	hour
Transfer Pump	3.00	hour
Ultrasonic Equipment	50.00	hour
Vapor Emission Test Kit	40.00	kit
Vector Conversion	60.00	conversion
Vehicle, nuclear gauge, equipment, wireless communication. *Add \$5.00/hr. for RTK enabled autotesting equipment.	33.00*	hour
Vehicle, equipment, wireless communication	23.00	hour
Vibration Monitor	1800.00	month
Water Sampling Pumps	20.00	hour
Bridge Toll	actual	actual
Mileage	.98	mile
Parking	actual	actual
AutoCAD, Civil 3D, GIS, Drone Data Processing	29.00	hour
Photocopies Black & White	0.25	each
Photocopies Color 11 x 17	1.50	each
Photocopies Color 8½ x 11	1.00	each
Plot - Black & White	3.00	square foot
Plot - Color	4.00	square foot
Postage	actual	actual
Scan - Black & White	1.50	each
Scan - Color	3.75	each
Telephone	0.50	minute

**MASTER AGREEMENT FOR GEOTECHNICAL SERVICES  
NINYO & MOORE GEOTECHNICAL & ENVIRONMENTAL SCIENCES CONSULTANTS**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day June, 2025, but effective July 1, 2025, by and between the City of Carlsbad, California, a municipal corporation, ("City"), and Ninyo & Moore Geotechnical & Environmental Sciences Consultants, a California corporation ("Contractor").

**RECITALS**

- A. City requires the professional services of a consultant that is experienced in geotechnical services.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to geotechnical.
- D. Contractor has submitted a proposal to the city responsive to Request for Qualifications RFQ25-3437CA and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, City and Contractor agree as follows:

**1. SCOPE OF WORK**

City retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A", which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective for a period of three (3) years from July 1, 2025, through June 30, 2028. The City Manager may amend the Agreement to extend it for two (2) additional one (1) year(s) periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, City needs, and appropriation of funds by the City Council. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by City and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the City Manager or the Division Director ("Director") as authorized by the City Manager. The City Manager or Director will give allowance for

documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight on the part of Contractor, or delays caused by City inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed five hundred thousand dollars (\$500,000). Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, City shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for City, the City Manager or Director, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

If the City elects to extend the term of the Master Services Agreement, adjustments to the rate schedule may be permitted. Upon receipt of a written request from the Contractor, the City may consider approving a rate schedule increase. Rate schedule increases will be considered for each anniversary of the Agreement effective date after the initial three-year term. An increase to the rate schedule will be calculated based on the proceeding 12-month percentage change in the Consumer Price Index, San Diego Area, for All Urban Customers (CPI-U), as reported by the Bureau of Labor Statistics or 5.0%, whichever is lower. If the CPI-U is a negative number, then the rate schedule will not be adjusted for that year. The Contractor must submit a request and justification to increase the rate schedule at least sixty days prior to the anniversary of the effective date, assuming the City opt to extend the Master Services Agreement. The justification accompanying the written request should detail the rationale for the requested adjustment, and the requested adjustment amount, supported by relevant documentation (e.g., CPI-U or 5.0%, whichever is less). Approval of rate schedule increase by the City must be documented in an amendment to the Agreement.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California

Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize the Owner's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. The Contractor is required to create a free web-based Procore user account(s) and utilize web-based training / tutorials (as needed) to become familiar with the system. Unless the Engineer approves otherwise, the Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. The Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of the Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that the Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, RFIs, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

## **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of City. Contractor will be under control of City only as to the result to be accomplished, but will consult with City as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of City for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. City will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. City will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify City within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which City may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At the City's election, City may deduct the indemnification amount from any balance owing to Contractor.

**9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

**10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of City. If Contractor subcontracts any of the Services, Contractor will be fully responsible to City for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and City. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by City.

**11. OTHER CONTRACTORS**

The City reserves the right to employ other Contractors in connection with the Services.

**12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by the City), indemnify, and hold harmless the City and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation program is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

**13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and

authorized to do business in the State of California. The insurance carrier is required to have a current Best's Key Rating of not less than "A-VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

13.1 Coverages and Limits. Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability (CGL) Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to City's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 The City will be named as an additional insured on Commercial General Liability which shall provide primary coverage to the City.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to City sent by certified mail pursuant to the Notice provisions of this Agreement.



13.3 Providing Certificates of Insurance and Endorsements. Prior to City's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to City.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then City will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by City to obtain or maintain insurance and City may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. City reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

14. **BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

15. **ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

16. **OWNERSHIP OF DOCUMENTS**

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of City. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to City. Contractor will have the right to make one (1) copy of the work product for Contractor's records.

17. **COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in City and Contractor relinquishes all claims to the copyrights in favor of City.

18. **NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of City and on behalf of Contractor under this Agreement are:

For City:

Name	Eleida Felix Yackel
Title	Senior Contract Administrator
Dept	Public Works/ Contract Admin
	CITY OF CARLSBAD
Address	1635 Faraday Ave.
	Carlsbad, CA 92008

For Contractor:

Name	Avram Ninyo
Title	President
Address	5710 Ruffin Road
	San Diego, CA 92123
Phone	858/576-1000
Email	aninyo@ninyoandmoore.com

Phone 442-339-2767

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

**19. GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or City will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, City may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If City decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, City may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by City and all work in progress to City at the address contained in this Agreement. City will make a determination of fact based upon the work product delivered to City and of the percentage of work that Contractor has performed which is

usable and of worth to City in having the Agreement completed. Based upon that finding City will determine the final payment of the Agreement.

City may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to City. In the event of termination of this Agreement by either party and upon request of City, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to City. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. City will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, City will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any Agreement claim submitted to City must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to City, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If City seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon City and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of City, which shall not be unreasonably withheld.

**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the City and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract, and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}

CONTRACTOR  
NINYO & MOORE GEOTECHNICAL &  
ENVIRONMENTAL SCIENCES  
CONSULTANTS, a California corporation

CITY OF CARLSBAD, a municipal  
corporation of the State of California

By: Avram Ninyo, PE GE / President  
(sign here)

By: \_\_\_\_\_  
Keith Blackburn, Mayor

Avram Ninyo, President and CFO  
(print name/title)

ATTEST:  
SHERRY FREISINGER, City Clerk

By: \_\_\_\_\_  
(sign here)

By: \_\_\_\_\_  
Faviola Medina,  
Director of Constituent & Clerk Services

\_\_\_\_\_  
(print name/title)

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

**Group A**  
Chairman,  
President, **or**  
Vice-President

**Group B**  
Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, City Attorney

BY: Cindie K. McMahon

**EXHIBIT A**

**SCOPE OF SERVICES AND FEES**

Perform a variety of tasks related to geotechnical services, as outlined in the individual Project Task Descriptions and Fee Allotments (PTD&FA), including but not limited to the following:

- A. Geotechnical Investigations.
- B. Hazardous Material Evaluations.
- C. Materials Testing.
- D. Groundwater Monitoring Well Installations.

Requests for work not listed above must be contracted under separate agreement.

**MASTER AGREEMENT RATE SCHEDULE**~~Prices valid through December 1, 2027~~

<b>STAFF</b>			
	<b>Name</b>	<b>Title</b>	<b>Hourly Rate</b>
1	Jeffrey T. Kent	Principal Engineer	\$195.00
2	Gregory Farrand	Principal Geologist	\$195.00
3	Kenneth Mansir, Jr.	Principal Engineer	\$195.00
4	Ronald Halbert	Principal Engineer	\$195.00
5	William Morrison	Principal Engineer	\$195.00
6	Robert Wheeler	Principal Geologist	\$195.00
7	Stephen Waide	Principal Industrial Hygienist	\$195.00
8	Travis Meier	Principal Environmental Scientist	\$195.00
9	Kai Vedenoja	Senior Engineer	\$190.00
10	Nathan Diem	Senior Geologist	\$190.00
11	Nicolas Carpenter	Senior Environmental Scientist/ Certified Asbestos/Lead Technician	\$190.00
12	Brian Ford	Certified Asbestos/Lead Technician	\$185.00
13	Lucas Waide	Certified Asbestos/Lead Technician	\$185.00
14	Gabriel Smith	Senior Project Engineer	\$185.00
15	Christy M. Kuhns	Senior Project Engineer	\$185.00
16	Nissa Morton	Senior Project Geologist	\$185.00
17	Christina Tretinjak	Senior Project Geologist	\$185.00
18	Zachary Hasten	Senior Project Geologist	\$185.00
19	Robert Sargent	Project Engineer	\$175.00
20	Miguel Angel Chin Gallegos	Project Engineer	\$175.00
21	Stephen Quimpo	Project Geologist	\$175.00
22	Christopher Frank	Senior Staff Engineer	\$150.00
23	Jorge Contreras	Senior Staff Geologist	\$150.00
24	Keith Kastama	Senior Staff Geologist	\$150.00
25	Cameron Higman	Staff Geologist	\$145.00
26	Jakob Montgomery	Staff Geologist	\$145.00
27	Ivan Guajardo	Special Inspector (Prevailing Wage/Non-Prevailing Rate)	\$139.00/\$109.00
28	Duc Nguyen	Special Inspector (Prevailing Wage/Non-Prevailing Rate)	\$139.00/\$109.00
29	Justin Hilterman	Special Inspector (Prevailing Wage/Non-Prevailing Rate)	\$139.00/\$109.00
30	Shawn Macias	Special Inspector (Prevailing Wage/Non-Prevailing Rate)	\$139.00/\$109.00
31	Ebenezer Medina	Special Inspector (Prevailing Wage/Non-Prevailing Rate)	\$139.00/\$109.00
32	David Hopkins	Special Inspector/Senior Field Technician (Prevailing Wage/Non-Prevailing Rate)	\$139.00/\$109.00
33	Alex Gutierrez	Special Inspector/Senior Field Technician (Prevailing Wage/Non-Prevailing Rate)	\$139.00/\$109.00

**MASTER AGREEMENT RATE SCHEDULE**~~Prices valid through December 1, 2027~~

<b>STAFF</b>			
	<b>Name</b>	<b>Title</b>	<b>Hourly Rate</b>
34	Julio Guzman	Special Inspector/Senior Field Technician (Prevailing Wage/Non-Prevailing Rate)	\$139.00/\$109.00
35	Daniel Lindsay	Special Inspector/Senior Field Technician (Prevailing Wage/Non-Prevailing Rate)	\$139.00/\$109.00
36	Everardo Rico	Special Inspector/Senior Field Technician (Prevailing Wage/Non-Prevailing Rate)	\$139.00/\$109.00
37	Micheil Mikhail	Special Inspector/Senior Field Technician (Prevailing Wage/Non-Prevailing Rate)	\$139.00/\$109.00
38	Timothy Timmerman	Special Inspector/Senior Field Technician (Prevailing Wage/Non-Prevailing Rate)	\$139.00/\$109.00
39	Kevin Tran	Special Inspector/Senior Field Technician (Prevailing Wage/Non-Prevailing Rate)	\$139.00/\$109.00
40	Richard Agcaoli	Senior Field Technician (Prevailing Wage/Non-Prevailing Rate)	\$138.00/\$108.00
41	Matt Ecker	Senior Field Technician (Prevailing Wage/Non-Prevailing Rate)	\$138.00/\$108.00
42	Aaron Frederick	Senior Field Technician (Prevailing Wage/Non-Prevailing Rate)	\$138.00/\$108.00
43	Alejandro Jimenez	Senior Field Technician (Prevailing Wage/Non-Prevailing Rate)	\$138.00/\$108.00
44	Mark MacCarthy	Senior Field Technician (Prevailing Wage/Non-Prevailing Rate)	\$138.00/\$108.00
45	Mario Palacios	Senior Field Technician (Prevailing Wage/Non-Prevailing Rate)	\$138.00/\$108.00
46	Thomas Whelan	Senior Field Technician (Prevailing Wage/Non-Prevailing Rate)	\$138.00/\$108.00
47	Joseph Tasto	Senior Field Technician (Prevailing Wage/Non-Prevailing Rate)	\$138.00/\$108.00
48	Eric Van Ginder	Senior Field Technician (Prevailing Wage/Non-Prevailing Rate)	\$138.00/\$108.00
49	Derek Horry	Field Technician (Prevailing Wage/Non-Prevailing Rate)	\$138.00/\$108.00
50	Norman Gutierrez	Field Technician (Prevailing Wage/Non-Prevailing Rate)	\$138.00/\$108.00
51	Jesse Lahman	GIS Analyst	\$125.00
52	Darin Vojtaskovic	Supervisory Technician	\$115.00
53	Alfredo Tapia	Senior Laboratory Technician	\$108.00
54	Tyler Morud	Laboratory Technician	\$103.00
55	Alexis Balane	Technical Illustrator	\$103.00
56	Carlos Govea	Geotechnical/Environmental/ Laboratory Assistant	\$80.00
57	Vanessa Boyer	Geotechnical/Environmental/ Laboratory Assistant	\$80.00
58	Trevor Holombo	Technical Assistant	\$80.00
59	Donna Madrigal	Data Processor	\$75.00
60	Angelique Frederick	Data Processor	\$75.00
61	Michelle Priebe	Data Processor	\$75.00



MASTER AGREEMENT RATE SCHEDULE  
~~Prices valid through December 1, 2027~~

EXPENSES			
	Description	Cost	%Markup
1	Subcontractor and Expense	Expense plus markup	15%
2	See laboratory fees list (page 4)	Per test	-
3	Concrete Coring Equipment (includes technician)	\$190.00/hr	-
4	Anchor Load Test Equipment (includes technician)	\$190.00/hr	-
5	GPR Equipment	\$180.00/hr	-
6	Inclinometer	\$100.00/hr	-
7	Hand Auger Equipment	\$ 80.00/hr	-
8	Rebar Locator (Pachometer)	\$ 25.00/hr	-
9	Vapor Emission Kit	\$ 65.00/kit	-
10	Nuclear Density Gauge	\$ 15.00/hr	-
11	X-Ray Fluorescence	\$ 70.00/hr	-
12	PID/FID	\$ 25.00/hr	-
13	Air Sampling Pump	\$ 10.00/hr	-
14	Field Vehicle	\$ 15.00/hr	-
15	Expert Witness Testimony	\$ 450.00/hr	-

For field and laboratory technicians and special inspectors, regular hourly rates are charged during normal weekday construction hours. Overtime rates at 1.5 times the regular rates will be charged for work performed outside normal construction hours and all day on Saturdays. Rates at twice the regular rates will be charged for all work in excess of 12 hours in one day or on Sundays and holidays. Lead time for any requested service is 24 hours. Field Technician rates are based on a 4-hour minimum. Special inspection rates are based on a 4-hour minimum for the first 4 hours and an 8-hour minimum for hours exceeding 4 hours. Field personnel are charged portal to portal.

~~Invoices will be submitted monthly and are due upon receipt. A service charge of 1.0 percent per month may be charged on accounts not paid within 30 days.~~

# MASTER AGREEMENT RATE SCHEDULE

~~Prices valid through December 1, 2027~~

## Schedule of Fees for Laboratory Testing

### SOILS

Atterberg Limits, D 4318, CT 204	\$ 170
California Bearing Ratio (CBR), D 1883	\$ 550
Chloride and Sulfate Content, CT 417 & CT 422	\$ 175
Consolidation, D 2435, CT 219	\$ 300
Consolidation, Hydro-Collapse only, D 2435	\$ 150
Consolidation – Time Rate, D 2435, CT 219	\$ 200
Direct Shear – Remolded, D 3080	\$ 350
Direct Shear – Undisturbed, D 3080	\$ 300
Durability Index, CT 229	\$ 175
Expansion Index, D 4829, IBC 18-3	\$ 190
Expansion Potential (Method A), D 4546	\$ 170
Geofabric Tensile and Elongation Test, D 4632	\$ 200
Hydraulic Conductivity, D 5084	\$ 350
Hydrometer Analysis, D 6913, CT 203	\$ 220
Moisture, Ash, & Organic Matter of Peat/Organic Soils	\$ 120
Moisture Only, D 2216, CT 226	\$ 35
Moisture and Density, D 2937	\$ 45
Permeability, CH, D 2434, CT 220	\$ 300
pH and Resistivity, CT 643	\$ 175
Proctor Density D1557, D 698, CT 216, AASHTO T-180	\$ 220
Proctor Density with Rock Correction D 1557	\$ 340
R-value, D 2844, CT 301	\$ 375
Sand Equivalent, D 2419, CT 217	\$ 125
Sieve Analysis, D 6913, CT 202	\$ 145
Sieve Analysis, 200 Wash, D 1140, CT 202	\$ 100
Specific Gravity, D 854	\$ 125
Thermal Resistivity (ASTM 5334, IEEE 442)	\$ 925
Triaxial Shear, C.D, D 4767, T 297	\$ 550
Triaxial Shear, C.U., w/pore pressure, D 4767, T 2297 per pt	\$ 450
Triaxial Shear, C.U., w/o pore pressure, D 4767, T 2297 per pt	\$ 350
Triaxial Shear, U.U., D 2850	\$ 250
Unconfined Compression, D 2166, T 208	\$ 180

### MASONRY

Brick Absorption, 24-hour submersion, 5-hr boiling, 7-day, C 67	\$ 70
Brick Compression Test, C 67	\$ 55
Brick Efflorescence, C 67	\$ 55
Brick Modulus of Rupture, C 67	\$ 50
Brick Moisture as received, C 67	\$ 45
Brick Saturation Coefficient, C 67	\$ 60
Concrete Block Compression Test, 8x8x16, C 140	\$ 70
Concrete Block Conformance Package, C 90	\$ 500
Concrete Block Linear Shrinkage, C 426	\$ 200
Concrete Block Unit Weight and Absorption, C 140	\$ 70
Cores, Compression or Shear Bond, CA Code	\$ 70
Masonry Grout, 3x3x6 prism compression, C 39	\$ 45
Masonry Mortar, 2x2 cube compression, C 109	\$ 35
Masonry Prism, half size, compression, C 1019	\$ 120
Masonry Prism, Full size, compression, C 1019	\$ 200

### REINFORCING AND STRUCTURAL STEEL

Chemical Analysis, A 36, A 615	\$ 135
Fireproofing Density Test, UBC 7-6	\$ 90
Hardness Test, Rockwell, A 370	\$ 80
High Strength Bolt, Nut & Washer Conformance, per assembly, A 325	\$ 150
Mechanically Spliced Reinforcing Tensile Test, ACI	\$ 175
Pre-Stress Strand (7 wire), A 416	\$ 170
Reinforcing Tensile or Bend up to No. 11, A 615 & A 706	\$ 75
Structural Steel Tensile Test: Up to 200,000 lbs., A 370	\$ 90
Welded Reinforcing Tensile Test: Up to No. 11 bars, ACI	\$ 80

### CONCRETE

Compression Tests, 6x12 Cylinder, C 39	\$ 35
Concrete Mix Design Review, Job Spec	\$ 300
Concrete Mix Design, per Trial Batch, 6 cylinder, ACI	\$ 850
Concrete Cores, Compression (excludes sampling), C 42	\$ 120
Drying Shrinkage, C 157	\$ 400
Flexural Test, C 78	\$ 85
Flexural Test, C 293	\$ 85
Flexural Test, CT 523	\$ 95
Gunit/Shotcrete, Panels, 3 cut cores per panel and test, ACI	\$ 275
Lightweight Concrete Fill, Compression, C 495	\$ 80
Petrographic Analysis, C 856	\$ 2,000
Restrained Expansion of Shrinkage Compensation	\$ 450
Splitting Tensile Strength, C 496	\$ 100
3x6 Grout, (CLSM), C 39	\$ 55
2x2x2 Non-Shrink Grout, C 109	\$ 55

### ASPHALT

Air Voids, T 269	\$ 85
Asphalt Mix Design, Caltrans (incl. Aggregate Quality)	\$ 4,500
Asphalt Mix Design Review, Job Spec	\$ 180
Dust Proportioning, CT LP-4	\$ 85
Extraction, % Asphalt, including Gradation, D 2172, CT 382	\$ 250
Extraction, % Asphalt without Gradation, D 2172, CT 382	\$ 150
Film Stripping, CT 302	\$ 120
Hveem Stability and Unit Weight D 1560, T 246, CT 366	\$ 225
Marshall Stability, Flow and Unit Weight, T 245	\$ 240
Maximum Theoretical Unit Weight, D 2041, CT 309	\$ 150
Moisture Content, CT 370	\$ 95
Moisture Susceptibility and Tensile Stress Ratio, T 238, CT 371	\$ 1,000
Slurry Wet Track Abrasion, D 3910	\$ 150
Superpave, Asphalt Mix Verification (incl. Aggregate Quality)	\$ 4,900
Superpave, Gyration Unit Wt., T 312	\$ 100
Superpave, Hamburg Wheel, 20,000 passes, T 324	\$ 1,000
Unit Weight sample or core, D 2726, CT 308	\$ 100
Voids in Mineral Aggregate, (VMA) CT LP-2	\$ 90
Voids filled with Asphalt, (VFA) CT LP-3	\$ 90
Wax Density, D 1188	\$ 140

### AGGREGATES

Clay Lumps and Friable Particles, C 142	\$ 180
Cleaness Value, CT 227	\$ 180
Crushed Particles, CT 205	\$ 175
Durability, Coarse or Fine, CT 229	\$ 205
Fine Aggregate Angularity, ASTM C 1252, T 304, CT 234	\$ 180
Flat and Elongated Particle, D 4791	\$ 220
Lightweight Particles, C 123	\$ 180
Los Angeles Abrasion, C 131 or C 535	\$ 200
Material Finer than No. 200 Sieve by Washing, C 117	\$ 90
Organic Impurities, C 40	\$ 90
Potential Alkali Reactivity, Mortar Bar Method, Coarse, C 1260	\$ 1,250
Potential Alkali Reactivity, Mortar Bar Method, Fine, C 1260	\$ 950
Potential Reactivity of Aggregate (Chemical Method), C 289	\$ 475
Sand Equivalent, T 176, CT 217	\$ 125
Sieve Analysis, Coarse Aggregate, T 27, C 136	\$ 120
Sieve Analysis, Fine Aggregate (including wash), T 27, C 136	\$ 145
Sodium Sulfate Soundness, C 88	\$ 450
Specific Gravity and Absorption, Coarse, C 127, CT 206	\$ 115
Specific Gravity and Absorption, Fine, C 128, CT 207	\$ 175

### ROOFING

Roofing Tile Absorption, (set of 5), C 67	\$ 250
Roofing Tile Strength Test, (set of 5), C 67	\$ 250

Special preparation of standard test specimens will be charged at the technician's hourly rate.  
Ninyo & Moore is accredited to perform the AASHTO equivalent of many ASTM test procedures.

**MASTER AGREEMENT FOR GEOTECHNICAL SERVICES  
BARNETT QUALITY CONTROL SERVICES, INC. DBA NOVA SERVICES, INC.**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day June, 2025, but effective July 1, 2025, by and between the City of Carlsbad, California, a municipal corporation, ("City"), and Barnett Quality Control Services, Inc. dba NOVA Services, Inc., a California corporation ("Contractor").

**RECITALS**

- A. City requires the professional services of a consultant that is experienced in geotechnical services.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to geotechnical.
- D. Contractor has submitted a proposal to the city responsive to Request for Qualifications RFQ25-3437CA and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, City and Contractor agree as follows:

**1. SCOPE OF WORK**

City retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A", which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective for a period of three (3) years from July 1, 2025, through June 30, 2028. The City Manager may amend the Agreement to extend it for two (2) additional one (1) year(s) periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, City needs, and appropriation of funds by the City Council. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by City and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the City Manager or the Division Director ("Director") as authorized by the City Manager. The City Manager or Director will give allowance for documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight

on the part of Contractor, or delays caused by City inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed five hundred thousand dollars (\$500,000). Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, City shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for City, the City Manager or Director, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

If the City elects to extend the term of the Master Services Agreement, adjustments to the rate schedule may be permitted. Upon receipt of a written request from the Contractor, the City may consider approving a rate schedule increase. Rate schedule increases will be considered for each anniversary of the Agreement effective date after the initial three-year term. An increase to the rate schedule will be calculated based on the proceeding 12-month percentage change in the Consumer Price Index, San Diego Area, for All Urban Customers (CPI-U), as reported by the Bureau of Labor Statistics or 5.0%, whichever is lower. If the CPI-U is a negative number, then the rate schedule will not be adjusted for that year. The Contractor must submit a request and justification to increase the rate schedule at least sixty days prior to the anniversary of the effective date, assuming the City opt to extend the Master Services Agreement. The justification accompanying the written request should detail the rationale for the requested adjustment, and the requested adjustment amount, supported by relevant documentation (e.g., CPI-U or 5.0%, whichever is less). Approval of rate schedule increase by the City must be documented in an amendment to the Agreement.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in

the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize the Owner's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. The Contractor is required to create a free web-based Procore user account(s) and utilize web-based training / tutorials (as needed) to become familiar with the system. Unless the Engineer approves otherwise, the Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. The Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of the Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that the Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, RFIs, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

## **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of City. Contractor will be under control of City only as to the result to be accomplished, but will consult with City as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of City for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. City will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. City will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify City within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which City may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At the City's election, City may deduct the indemnification amount from any balance owing to Contractor.

**9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

**10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of City. If Contractor subcontracts any of the Services, Contractor will be fully responsible to City for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and City. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by City.

**11. OTHER CONTRACTORS**

The City reserves the right to employ other Contractors in connection with the Services.

**12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by the City), indemnify, and hold harmless the City and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation program is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

**13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current

Best's Key Rating of not less than "A-:VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

13.1 Coverages and Limits. Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability (CGL) Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to City's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 The City will be named as an additional insured on Commercial General Liability which shall provide primary coverage to the City.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to City sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to City's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to City.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then City will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by City to obtain or maintain insurance and City may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. City reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

#### 14. BUSINESS LICENSE

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

#### 15. ACCOUNTING RECORDS

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

#### 16. OWNERSHIP OF DOCUMENTS

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of City. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to City. Contractor will have the right to make one (1) copy of the work product for Contractor's records.

#### 17. COPYRIGHTS

Contractor agrees that all copyrights that arise from the services will be vested in City and Contractor relinquishes all claims to the copyrights in favor of City.

#### 18. NOTICES

The name of the persons who are authorized to give written notice or to receive written notice on behalf of City and on behalf of Contractor under this Agreement are:

##### For City:

Name	<u>Eleida Felix Yackel</u>
Title	<u>Senior Contract Administrator</u>
Dept	<u>Public Works/ Contract Admin</u>
	<u>CITY OF CARLSBAD</u>
Address	<u>1635 Faraday Ave.</u>
	<u>Carlsbad, CA 92008</u>

##### For Contractor:

Name	<u>Danny Barnett</u>
Title	<u>President</u>
Address	<u>4373 Viewridge Ave, Ste B</u>
	<u>San Diego, CA 92123</u>
Phone	<u>858 292 7575</u>
Email	<u>djbarnett@usa-nova.com</u>



Phone 442-339-2767

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

**19. GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or City will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, City may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If City decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, City may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by City and all work in progress to City at the address contained in this Agreement. City will make a determination of fact based upon the work product delivered to City and of the percentage of work that Contractor has performed which is

usable and of worth to City in having the Agreement completed. Based upon that finding City will determine the final payment of the Agreement.

City may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to City. In the event of termination of this Agreement by either party and upon request of City, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to City. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. City will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, City will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any Agreement claim submitted to City must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to City, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If City seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon City and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of City, which shall not be unreasonably withheld.

**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the City and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract, and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}

CONTRACTOR  
BARNETT QUALITY CONTROL SERVICES, INC.  
DBA NOVA SERVICES, INC., a California  
corporation

CITY OF CARLSBAD, a municipal  
corporation of the State of California

By: Danny J. Barnett, Jr.  
(sign here)

By: \_\_\_\_\_  
Keith Blackburn, Mayor

Danny J. Barnett, President, Secretary and CFO  
(print name/title)

ATTEST:

By: \_\_\_\_\_  
(sign here)

SHERRY FREISINGER, City Clerk

By: \_\_\_\_\_  
Faviola Medina,  
Director of Constituent & Clerk Services

\_\_\_\_\_  
(print name/title)

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

**Group A**  
Chairman,  
President, **or**  
Vice-President

**Group B**  
Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, City Attorney

BY: Cindie K. McMahon

**EXHIBIT A****SCOPE OF SERVICES AND FEES**

Perform a variety of tasks related to geotechnical services, as outlined in the individual Project Task Descriptions and Fee Allotments (PTD&FA), including but not limited to the following:

- A. Geotechnical Investigations.
- B. Hazardous Material Evaluations.
- C. Materials Testing.
- D. Groundwater Monitoring Well Installations.

Requests for work not listed above must be contracted under separate agreement.



## ATTACHMENT B - MASTER SERVICES AGREEMENT RATE SCHEDULE (PRICES VALID THROUGH TERM OF AGREEMENT)

<b><u>STAFF</u></b>			
	<b><u>NAME</u></b>	<b><u>TITLE</u></b>	<b><u>HOURLY RATE</u></b>
	Tom Canady, PE	Contract Manager, Principal Engineer	\$ 250.00
	Andrew K. Neuhaus, PG, CEG	Senior Engineering Geologist, Alternate Contract Manager	\$ 225.00
	John F. O'Brien, PE, GE	Principal Geotechnical Engineer	\$ 275.00
	Gillian Carzzarella Dean, PE, GE	Senior Engineer/Geologist	\$ 225.00
	Giovanni Norman, PG	Project Engineer/Geologist	\$ 200.00
	Hillary Price, GIT	Staff Engineer/Geologist	\$ 180.00
	David Lewis	Project Manager	\$ 200.00
	Wail Mokhtar	Project Manager	\$ 200.00
	Adam Greening, GIT	Laboratory Manager	\$ 95.00
	Seth Bennett, Barney Dumas, Morgan Lamb	Special Inspectors	\$ 140.00
	Seth Bennett, Barney Dumas, Steve Hamlin, Dustin Jasper, Morgan Lamb, Patrick McGinty, and Brian Steinhauser	ACI Concrete Technicians	\$ 138.00
	Seth Bennett, Steve Hamlin, Dustin Jasper, Patrick McGinty, and Brian Steinhauser	Soils Technicians	\$ 140.00
		Firestopping/Fire Caulking Inspector	\$ 148.00
		Non-Destructive Testing Technician	\$ 148.00
		Geotechnical Supervisor	\$ 150.00
		Drafter	\$ 110.00
		Lab Technician, services outside normal business hours	\$ 95.00
<b><u>SUB-CONSULTANTS</u></b>			
	<b><u>NAME/FIRM</u></b>	<b><u>TITLE</u></b>	<b><u>HOURLY RATE</u></b>
	Dan Johnson/SCS Engineers	Senior Project Advisor	\$ 375.00
	Luke Montague/SCS Engineers	Project Advisor	\$ 335.00
	Chris Crosby/SCS Engineers	Project Director	\$ 285.00
	Chuck Houser/SCS Engineers	Project Manager	\$ 246.00
	Cristobal Ramirez/SCS Engineers	Project Manager	\$ 250.00
		Staff Professional	\$ 170.00
		Utility Locator	\$ 350.00



## ATTACHMENT B - MASTER SERVICES AGREEMENT RATE SCHEDULE (PRICES VALID THROUGH TERM OF AGREEMENT)

<b>EXPENSES</b>			
	<b>DESCRIPTION</b>	<b>COST</b>	<b>% MARKUP</b>
<b>NOVA Services, Inc.</b>			
	See rate schedule below and on following pages	\$	0%
<b>SCS ENGINEERS</b>			
	Well Permits: First	\$ 1,000.00	10%
	Each Additional (per site/permit)	\$ 700.00	10%
	TPH (per test)	\$ 60.00	10%
	VOCs (per test)	\$ 93.00	10%
	Metals (per test)	\$ 120.00	10%
	Additional lab costs based on project requirements		10%
<b>Baja Exploration</b>			
	See rate schedule on page 5		10%

### TRAVEL TIME AND MILEAGE

For projects that are greater than 50 miles from NOVA's Office, The IRS approved current rate will be charged per excess mile to and from the project will be charged for inspectors and technicians.

### EXPENSES AND OUTSIDE SERVICES

Outside services and reimbursable expenses not included in this fee schedule (samples sent to outside laboratory for testing, samples sent to outside fabricator or machine shop, equipment, subcontractors, vendor credentialing and billing programs, etc.) are charged at cost plus 10%.

<b>SERVICES</b>	<b>UNIT</b>	<b>RATE</b>
<b>Equipment and Expenses</b>		
Coring Two Man Crew	Hour	\$ 400.00
Pachometer (reinforcing steel)	Day	\$ 60.00
Skidmore/Whilhelm	Day	\$ 220.00
Floor Flatness	Visit	\$ 1,750.00
Schmidt Hammer	Day	\$ 60.00
Nuclear Gauge	Day	\$ 45.00

<b>Support Services and Other Expenses</b>		
Pick-Up/Delivery within San Diego County	Trip	\$ 85.00
Expert Witness Testimony	Hour	\$ 400.00
Administrative Support	Hour	\$ 85.00
Monthly MetaField Reporting	Month	\$ 450.00



## ATTACHMENT B - MASTER SERVICES AGREEMENT RATE SCHEDULE (PRICES VALID THROUGH TERM OF AGREEMENT)

LABORATORY TESTING		
Test	ASTM	Rate
<b>Soil and Aggregate</b>		
Compaction Curve, Modified,	D1557	\$ 275.00
Compaction Curve, Standard,	D698	\$ 275.00
Compaction Check Point		\$ 90.00
Oversize Rock Correction	D4718	\$ 90.00
Sieve Analysis, with Wash	C136, D6913, CT 202	\$ 155.00
Sieve Analysis, fine with Hydrometer	D6913, D7928, D422	\$ 240.00
Percent Finer than #200	C117	\$ 85.00
Specific Gravity and Absorption, Coarse	C127, CT 206	\$ 180.00
Specific Gravity and Absorption, Fine	C128, CT 207	\$ 135.00
Unit Weight and Voids in Aggregate	C29, CT 212	\$ 90.00
Moisture Content	D2216, CT 226	\$ 45.00
Moisture Content and Dry Density	D2937	\$ 45.00
Atterberg Limits: PL, LL, PI	D4318, CT 204	\$ 225.00
Sand Equivalent	D2419, CT 217	\$ 100.00
Durability Index	D3744	\$ 265.00
Cleanliness Value	CT 227	\$ Quote
Los Angeles Abrasion (LA Rattler)	C131, C535	\$ Quote
Expansion Index	D4829	\$ 235.00
R-Value	D2844	\$ 375.00
Consolidation	D2435	\$ 250.00
Direct Shear	D3080	\$ 335.00
Direct Shear Remold		\$ 635.00
Sulfate and Chloride Content		\$ 130.00
pH and Resistivity	CT 643	\$ 165.00
Unconfined Compression	D2166	\$ 180.00
California Bearing Ratio	D1883	\$ 650.00
<b>Asphalt Concrete</b>		
Hveem Stability and Unit Weight	D1560	\$ 370.00
Wet Track Abrasion	D3910	\$ 230.00
Maximum Theoretical Specific Gravity (Rice)	D2041	\$ 150.00
Percent Asphalt with Gradation (ignition oven)	C6307	\$ 250.00
Unit Weight Only (compacted sample or core)	D2726, D1188	\$ 55.00
Unit Weight Requiring Compaction	D2726	\$ 250.00
Asphalt Mix Design Review (per hour)		\$ 250.00
<b>Concrete and Masonry</b>		
Concrete Cylinder Compression Test (4x8, 6x12)	C39, CT 521	\$ 40.00
Compression Test, Mortar, Grout	C780, C1019	\$ 50.00
Compression Test, High-Strength Grout	C1107	\$ 60.00
Compression Test, Core (includes sample prep)	C42	\$ 100.00
Compression Test, Lightweight Concrete (insulating, fill)	C495	\$ 60.00
Compression Test, Shotcrete Panel, set of four cut cores	C42	\$ 385.00
Flexural Strength, 6X6 beam	C78, C293, CT 523	\$ 125.00
Fiber Reinforced Polymer	D7565	\$ 895.00
Unit Weight Fresh Concrete	C138, CT 518	\$ 55.00
Unit Weight, Lightweight Concrete	C567	\$ 90.00





## ATTACHMENT B - MASTER SERVICES AGREEMENT RATE SCHEDULE (PRICES VALID THROUGH TERM OF AGREEMENT)

LABORATORY TESTING		
Test	ASTM	Rate
<b>Concrete and Masonry (continued)</b>		
Concrete Drying Shrinkage, set of three specimens	C157	\$ 450.00
Concrete Mix Design Review (per hour)		\$ 250.00
Moisture Vapor Emission Kit	F1869	\$ 55.00
Shotcrete Nozzleman Certification – mock-up panel, coring, and grading (per nozzleman)		\$ 2,650.00
Composite Prism Masonry Unit	C1314	\$ 240.00
Compression Test, Block	C140	\$ 70.00
Compression Test, Brick	C67	\$ 60.00
Absorption, Unit Weight, and Received Moisture, Masonry Block	C140	\$ 190.00
Lineal Shrinkage, Masonry Block	C426	\$ 295.00
Masonry Block Conformance (absorption, unit weight, shrinkage, compressive strength)	C90	\$ 700.00
<b>Steel and Fireproofing</b>		
Bolt-Nut-Washer Conformance Testing	F606	\$ 850.00
Bolt-Nut-Washer, Hardness Only	F606	\$ 195.00
Reinforcing Steel, Tensile Test, < No. 6 bar	A370	\$ 110.00
Reinforcing Steel, Tensile Test, No. 7 or higher bar	A370	\$ Quote
Reinforcing Steel, Bend Test, No. 6 bar or smaller	A370	\$ 110.00
Reinforcing Steel, Tensile Test, No. 7 bar or higher	A370	\$ Quote
Tensile Strength Mechanical Splice		\$ Quote
Fireproofing – Density Test (template/displacement)	E605	\$ 85.00
Fireproofing Adhesion/Cohesion	E736	\$ 35.00

- Overtime occurs in the following instances:
  - work more than 8 hours per day is charged at time-and-a-half.
  - work more than 40 hours per week is charged at time-and-a-half.
  - work performed outside the hours between 6:30 a.m. and 4:00 p.m., Monday through Friday is charged at time-and-a-half; work up to 12 hours per day on Saturday is charged at time-and-a-half.
  - work more than 12 hours in one day, or over 8 hours on the 7th consecutive day or worked Sundays/holidays is charged at double time.
- Hourly rates are charged on a portal-to-portal basis.
- Mileage will be charged at the current IRS approved rate per mile for services performed outside a 50-mile radius of this office.
- A 4-hour minimum is charged for field services. Work performed more than 4 hours will be charged in 1-hour increments. Work performed over 8 hours is charged in half-hour increments.
- **24-hour notice via submittal of the Dispatch Request Form to [dispatch@usa-nova.com](mailto:dispatch@usa-nova.com) is requested for testing and inspection services.** There will be a 4-hour minimum charge (show-up time) for cancellations without notification.
- Same Day Callouts will be subject to a 1-hour project management fee.
- When personnel are required by job conditions to work more than 5 consecutive hours without the ability to take a one-half hour uninterrupted lunch period, an additional hour will be billed at regular time in addition to actual hours worked.
- Laboratory testing that is required to be performed outside regular hours will be billed for Lab Technician time in addition to the lab test rate. Weekend sample pickups, if required, will incur additional charges.



## ATTACHMENT B - MASTER SERVICES AGREEMENT RATE SCHEDULE (PRICES VALID THROUGH TERM OF AGREEMENT)

<div style="display: flex; align-items: center;"> <div style="text-align: center;"> <h3>Baja Exploration Fee Schedule</h3> </div> </div>	
Service	Unit Price
<b>Minimum Half-Day Rate (up to 4 Hours)</b>	
CME 75, minimum drill site charge, including mobilization, up to 4 hours	\$ 2,800.00
CME 75, minimum drill site charge, including mobilization, up to 4 hours, with prevailing wages	\$ 3,600.00
CME 95, minimum drill site charge, including mobilization, up to 4 hours	\$ 3,300.00
CME 95, minimum drill site charge, including mobilization, up to 4 hours, with prevailing wages	\$ 4,000.00
Hand Auger Tech, minimum site charge, including mobilization, up to 4 hours	\$ 1,200.00
<b>Day Rates</b>	
CME 75, day rate drill site charge, including mobilization, up to 8 hours	\$ 3,700.00
CME 75, day rate drill site charge, including mobilization, up to 8 hours, with prevailing wages	\$ 4,600.00
CME 95, day rate drill site charge, including mobilization, up to 8 hours	\$ 4,200.00
CME 95, day rate drill site charge, including mobilization, up to 8 hours, with prevailing wages	\$ 5,200.00
Limited Access Rig (LAR), day rate drill site charge, including mobilization, up to 8 hours	\$ 3,700.00
Limited Access Rig (LAR), day rate drill site charge, including mobilization, up to 8 hours, with PW	\$ 4,700.00
Hand Auger Tech, day rate site charge, including mobilization, up to 8 hours	\$ 2,100.00
<b>Mobilization Fees</b>	
Mobilization outside of San Diego, Fresno, Riverside and Inland Empire metro areas	Email for quote
Standby rate if applicable (per hour)	\$ 300.00
<b>Hollow Stem Auger (HSA) Drilling Footage Rates for Permitted or Non-permitted Soil Borings (SB)</b>	
HSA 0'-30' for SB's, including grout and surface restoration	\$ 50.00
HSA 31'-50' for SB's, including grout and surface restoration	\$ 50.00
HSA 51'-100' for SB's, including grout and surface restoration	\$ 62.00
<b>PVC Wells</b>	
HSA 0'-30' for 2" MW, including casing, 15' of screen and all annular materials	\$ 60.00
HSA 0'-30' for 4" MW	\$ 71.00
HSA 31'-50' for 2" MW	\$ 59.00
HSA 31'-50' for 4" MW	\$ 72.00
HSA 51'-100' for 2" MW	Email for quote
HSA 51'-100' for 4" MW	Email for quote
Stainless Steel Geotech Rings - CAL Modified - Per Cannister (6)	\$ 25.00
Brass Geotech Rings - CAL Modified - Per Cannister (6)	\$ 45.00
Environmental SS Sample Liners-EACH	\$ 8.00
Surface Completions, in asphalt or soil (3 foot concrete pad)	\$ 750.00
Air Rotary Drilling or Coring	Email for quote
Extra Personnel (3rd man) Hourly Rate (non-prevailing wage)	\$ 95.00
<b>Air Rotary Drilling or Coring</b>	
Concrete Cutting or coring for up to 3 foot diameter Well Pads, up to 6" thick concrete, first hole	\$ 500.00
Additional holes or cuts	\$ 260.00
<b>Well Destruction</b>	
2 inch PVC	Email for quote
4 inch PVC	Email for quote
<b>Additional Vehicles</b>	
Support Truck (day rate)	\$ 300.00
Support Truck with Lift Gate (day rate)	\$ 600.00
Self Contained Decontamination Trailer (day rate)	\$ 600.00
<b>Materials</b>	
Bag of Portland Cement	\$ 30.00
Bag of Bentonite Chips	\$ 30.00
Bag of Bentonite Grout	\$ 35.00
Bag of Concrete	\$ 20.00
Bag of Rapidset	\$ 35.00
Bucket of Aquaphalt	\$ 95.00
55 Gallon Drum	\$ 135.00
55 Gallon Drum with Disposal (Only for Non-Hazardous Material)	\$ 205.00
<b>LUMP SUM QUOTES ARE ALWAYS AVAILABLE UPON REQUEST</b>	
Phone - (760) 743-7678 • Fax - (760) 737-6044 • Email - dbhogan@bajaexploration.com • C57 License# 804318	
<b>City of Carlsbad</b>	

**MASTER AGREEMENT FOR GEOTECHNICAL SERVICES  
TETRA TECH, INC.**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day June, 2025, but effective July 1, 2025, by and between the City of Carlsbad, California, a municipal corporation, ("City"), and Tetra Tech, Inc., a Delaware corporation ("Contractor").

**RECITALS**

- A. City requires the professional services of a consultant that is experienced in geotechnical services.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to geotechnical.
- D. Contractor has submitted a proposal to the city responsive to Request for Qualifications RFO25-3437CA and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, City and Contractor agree as follows:

**1. SCOPE OF WORK**

City retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A", which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective for a period of three (3) years from July 1, 2025, through June 30, 2028. The City Manager may amend the Agreement to extend it for two (2) additional one (1) year(s) periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, City needs, and appropriation of funds by the City Council. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by City and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the City Manager or the Division Director ("Director") as authorized by the City Manager. The City Manager or Director will give allowance for documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight

on the part of Contractor, or delays caused by City inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed five hundred thousand dollars (\$500,000). Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, City shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for City, the City Manager or Director, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

If the City elects to extend the term of the Master Services Agreement, adjustments to the rate schedule may be permitted. Upon receipt of a written request from the Contractor, the City may consider approving a rate schedule increase. Rate schedule increases will be considered for each anniversary of the Agreement effective date after the initial three-year term. An increase to the rate schedule will be calculated based on the proceeding 12-month percentage change in the Consumer Price Index, San Diego Area, for All Urban Customers (CPI-U), as reported by the Bureau of Labor Statistics or 5.0%, whichever is lower. If the CPI-U is a negative number, then the rate schedule will not be adjusted for that year. The Contractor must submit a request and justification to increase the rate schedule at least sixty days prior to the anniversary of the effective date, assuming the City opt to extend the Master Services Agreement. The justification accompanying the written request should detail the rationale for the requested adjustment, and the requested adjustment amount, supported by relevant documentation (e.g., CPI-U or 5.0%, whichever is less). Approval of rate schedule increase by the City must be documented in an amendment to the Agreement.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in

the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize the Owner's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. The Contractor is required to create a free web-based Procore user account(s) and utilize web-based training / tutorials (as needed) to become familiar with the system. Unless the Engineer approves otherwise, the Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. The Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of the Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that the Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, RFIs, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

## **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of City. Contractor will be under control of City only as to the result to be accomplished, but will consult with City as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of City for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. City will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. City will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify City within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which City may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At the City's election, City may deduct the indemnification amount from any balance owing to Contractor.

**9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

**10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of City. If Contractor subcontracts any of the Services, Contractor will be fully responsible to City for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and City. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by City.

**11. OTHER CONTRACTORS**

The City reserves the right to employ other Contractors in connection with the Services.

**12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by the City), indemnify, and hold harmless the City and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation program is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

**13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current

Best's Key Rating of not less than "A-:VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

13.1 Coverages and Limits. Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability (CGL) Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to City's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 The City will be named as an additional insured on Commercial General Liability which shall provide primary coverage to the City.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to City sent by certified mail pursuant to the Notice provisions of this Agreement.





Phone 442-339-2767

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

**19. GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or City will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, City may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If City decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, City may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by City and all work in progress to City at the address contained in this Agreement. City will make a determination of fact based upon the work product delivered to City and of the percentage of work that Contractor has performed which is

usable and of worth to City in having the Agreement completed. Based upon that finding City will determine the final payment of the Agreement.

City may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to City. In the event of termination of this Agreement by either party and upon request of City, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to City. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. City will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, City will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any Agreement claim submitted to City must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to City, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If City seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon City and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of City, which shall not be unreasonably withheld.

**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the City and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract, and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}

CONTRACTOR  
TETRA TECH, INC., a Delaware corporation

CITY OF CARLSBAD, a municipal  
corporation of the State of California

By:

Jeremy Travis, President, Government Services Group  
(sign here)

Jeremy Travis,

President of the United States Government Division

(print name/title)

By:

(sign here)

(print name/title)

By:

Keith Blackburn, Mayor

ATTEST:

SHERRY FREISINGER, City Clerk

By:

Faviola Medina,  
Director of Constituent & Clerk Services

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

**Group A**

Chairman,  
President, or  
Vice-President

**Group B**

Secretary,  
Assistant Secretary,  
CFO or Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, City Attorney

BY: Cindie K. McMahon

**EXHIBIT A**

**SCOPE OF SERVICES AND FEES**

Perform a variety of tasks related to geotechnical services, as outlined in the individual Project Task Descriptions and Fee Allotments (PTD&FA), including but not limited to the following:

- A. Geotechnical Investigations.
- B. Hazardous Material Evaluations.
- C. Materials Testing.
- D. Groundwater Monitoring Well Installations.

Requests for work not listed above must be contracted under separate agreement.

**TETRA TECH, INC.**  
**SCHEDULE OF FEES**

Charges will be made at the following rates for biologists, scientists, and other professional staff for time spent on project related: meetings, field activities, evaluations, review and analysis of field and laboratory data, travel, report preparation /review, and other project-related activities.

<b>Position</b>	<b>Hourly rate</b>
Principal	\$310.00
Sr. Engineer/Geologist	\$299.00
Project Engineer/Geologist	\$207.00
Staff Engineer/Geologist	\$178.00
Tecnician III	\$140.00
Tecnician II	\$130.00
Tecnician I	\$120.00
GIS Technician	\$155.00
Word Processor	\$125.00
Financial Manager	\$170.00

**Terms**

The rates provided above are effective for 3 years with no escalation as per the RFQ as mutually agreed upon between City of Carlsbad and Tetra Tech. An annual rate increase will be applied after this timeframe at mutually agreed upon date between the two parties, at and agreed upon percentage.

**Expenses**

Direct, non-salary expenses incurred as related to the project and that are not applicable to general overhead will be invoiced at our cost multiplied by 1.10. Examples of direct expenses are project supplies, travel expenses, and lodging expenses. A vehicle mileage rate equal to the current US General Services Administration (GSA) mileage reimbursement rate will apply, currently at \$0.67/mile. Link: [Privately owned vehicle \(POV\) mileage reimbursement rates | GSA](#)

**Subcontract**

Subcontracted services will be invoiced at our cost multiplied by 1.10.

**TETRA TECH, INC.  
SCHEDULE OF FEES**

**Category 5 – Geotechnical Services – UES Professional Solutions, Inc. (UES)  
Subcontractor**

Charges will be made at the following rates for biologists, scientists, and other professional staff for time spent on project related: meetings, field activities, evaluations, review and analysis of field and laboratory data, travel, report preparation /review, and other project-related activities.

<b>Position</b>	<b>Hourly rate</b>
Program Manager	\$180
Principal Geologist / Scientist / Engineer	\$180
Senior Geologist / Scientist / Engineer	\$160
Associate Geologist / Scientist / Engineer	\$140
Staff Geologist / Scientist / Engineer	\$130
Principal Civil Engineer	\$180
Senior Civil Engineer	\$160
Staff Civil Engineer	\$140
Principal Geotechnical Engineer	\$180
Senior Geotechnical Engineer	\$160
Staff Geotechnical Engineer	\$130
Principal Geophysicist	\$210
Senior Geophysicist	\$180
Sr. Surveyor	\$130
Staff Surveyor	\$160
Technician III	\$130
Technician II	\$125
Technician I	\$120
GIS Specialist	\$100
GIS Technician	\$90
Health and Safety Manager	\$225
Financial Manager	\$110
Word Processor	\$85
Technical Editor	\$90
<del>Percent annual increase</del>	<del>(If allowed) 3%</del>

**Terms**

The rates provided above are effective ~~for 12 months from contract signing~~, or as mutually agreed upon between City of Carlsbad and Tetra Tech. An annual rate increase will be applied at mutually agreed upon dates between the two parties, ~~at the percentage provided in the table above.~~

City of Carlsbad  
RFQ MSA Consultant Services RFQ25-3437CA  
December 18, 2024

Tetra Tech, Inc.  
1230 Columbia Street, Suite 1000  
San Diego, CA, 92101

**Expenses**

Direct, non-salary expenses incurred as related to the project and that are not applicable to general overhead will be invoiced at our cost multiplied by 1.10. Examples of direct expenses are project supplies, travel expenses, and lodging expenses. A vehicle mileage rate equal to the current US General Services Administration (GSA) mileage reimbursement rate will apply, currently at \$0.67/mile. Link: [Privately owned vehicle \(POV\) mileage reimbursement rates | GSA](#)

**Subcontract**

Subcontracted services will be invoiced at our cost multiplied by 1.10



**MASTER AGREEMENT FOR AS-NEEDED HORIZONTAL CONSTRUCTION MANAGEMENT AND INSPECTION  
ARCADIS U.S., INC.**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2025, but effective August 18, 2025, by and between the City of Carlsbad, California, a municipal corporation ("City"), and Arcadis U.S., Inc., a Delaware corporation ("Contractor").

**RECITALS**

- A. City requires the professional services of a consultant that is experienced in construction management and inspection for horizontal projects.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to as-needed horizontal construction management and inspection.
- D. Contractor has submitted a proposal to the city responsive to Request for Qualifications RFQ25-3671CMI and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, City and Contractor agree as follows:

**1. SCOPE OF WORK**

City retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A," which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area, and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective from the date first above written to Aug. 17, 2028. The City Manager may amend the Agreement to extend it for two (2) additional one (1) year periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, City needs, and appropriation of funds by the City Council. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by City and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the City Manager or the Division Director ("Director") as authorized by the City Manager. The City Manager or Director will give allowance for

documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight on the part of Contractor, or delays caused by City inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

#### **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed eight hundred thousand dollars (\$800,000) per Agreement year. If the City extends the Agreement pursuant to Section 3, the costs of services may increase by a maximum of 2% per Agreement year, if agreed to by both parties. Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A." Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, City shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for City, the City Manager or Director, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

#### **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

#### **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize City's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. Contractor is required to create a free web-based Procore user account(s) and utilize web-based training/tutorials (as needed) to become familiar with the system. Unless the City Engineer approves otherwise, Contractor shall process all project documents through Procore because

this platform will be used to submit, track, distribute and collaborate on projects. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. Contractor is responsible for attaining Contractor's own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to Contractor for use of Procore.

It is recommended that Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, requests for information, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

#### **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of City. Contractor will be under the control of City only as to the result to be accomplished, but will consult with City as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of City for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. City will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. City will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify City within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which City may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At the City's election, City may deduct the indemnification amount from any balance owing to Contractor.

#### **9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

#### **10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of City. If Contractor subcontracts any of the Services, Contractor will be fully responsible to City for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and City. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement

applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by City.

#### **11. OTHER CONTRACTORS**

The City reserves the right to employ other Contractors in connection with the Services.

#### **12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by the City), indemnify, and hold harmless the City and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorney's fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation program is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

#### **13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current Best's Key Rating of not less than "A-:VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

**13.1 Coverages and Limits.** Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability (CGL) Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to City's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 The City will be named as an additional insured on Commercial General Liability which shall provide primary coverage to the City.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to City sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to City's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to City.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then City will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by City to obtain or maintain insurance and City may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. City reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

**14. BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

**15. ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

**16. OWNERSHIP OF DOCUMENTS**

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of City. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to City. Contractor will have the right to make one (1) copy of the work product for Contractor's records.

**17. COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in City and Contractor relinquishes all claims to the copyrights in favor of City.

**18. NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of City and on behalf of Contractor under this Agreement are:

For City:

Name	Jennifer Chapman
Title	Senior Contract Administrator
Dept	Public Works/CM&I
	CITY OF CARLSBAD
Address	1635 Faraday Ave.
	Carlsbad, CA 92008
Phone	442-339-2780

For Contractor:

Name	Lauren Jentzen
Title	PE - Construction Principal (Project Manager)
Address	530 B Street, Suite 1000
	San Diego, CA 92101
Phone	858-414-2449
Email	lauren.jentzen@arcadis.com

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

**19. GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services, the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or City will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, City may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If City decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, City may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by City and all work in progress to City at the address contained in this Agreement. City will make a determination of fact based upon the work product delivered to City and of the percentage of work that Contractor has performed which is usable and of worth to City in having the Agreement completed. Based upon that finding City will determine the final payment of the Agreement.

City may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to City. In the event of termination of this Agreement by either party and upon request of City, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to City. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. City will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission,

percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, City will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any Agreement claim submitted to City must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to City, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act, applies to this Agreement and provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If City seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon City and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of City, which shall not be unreasonably withheld.

**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the City and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract



and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

### 31. **AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

CONTRACTOR  
ARCADIS U.S., INC., a Delaware corporation

CITY OF CARLSBAD, a municipal corporation of  
the State of California

By:

*John McCarthy*

(sign here)

John McCarthy, President

(print name/title)

By:

*Robyn L. Miller*

(sign here)

Robyn Miller, Secretary

(print name/title)

By:

KEITH BLACKBURN, Mayor

ATTEST:

SHERRY FREISINGER, City Clerk

By:

Director of Constituent & Clerk Services

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

Group A  
Chairman,  
President, **or**  
Vice-President

Group B  
Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, City Attorney

BY:

*Cindie K. McMahon*

**EXHIBIT A**

**SCOPE OF SERVICES AND FEES**

Contractor shall perform as-needed horizontal construction management and inspection services in accordance with the city's Request for Qualifications (RFQ25-3671CMI) dated March 5, 2025. The agreed upon billing rates for services outlined in said proposal are attached hereto.

All hours billed will be paid at a straight time rate; no overtime billing allowed.

Hours billed on a non-contractor workday must receive prior authorization by city staff.

Rates are inclusive of equipment, vehicle, mileage, laptop computers with wireless connections, cell phone, insurance, travel time, etc.



## Fee Schedule

Prices valid through initial Term of Agreement. If the City extends the Agreement, compensation may increase by a maximum of 2%, upon agreement by the City or CMWD.

Arcadis Staff					
	Name	Title	Hourly Rate	OT Rate	DT Rate
1.	Lauren Jentzen	Construction Manager / Resident Engineer	\$283.00	NA	NA
2.	Arthur Serata	Construction Manager / Resident Engineer	\$283.00	NA	NA
3.	Nariman Khomamizadeh	Construction Manager / Resident Engineer	\$220.00	NA	NA
4.	Craig Hutchins	Construction Manager / Resident Engineer	\$230.00	NA	NA
5.	Yanal Bushnaq	Construction Manager / Resident Engineer	\$195.00	NA	NA
6.	Allen Day	Construction Inspector*	\$220.00	\$260.00	\$300.00
7.	Sarah Thomson	Construction Inspector*	\$238.00	\$280.00	\$323.00
8.	Conrad Taylor	Construction Inspector*	\$220.00	\$260.00	\$300.00
9.	Chris Wright	Construction Inspector*	\$238.00	\$280.00	\$323.00
10.	Erik Anderson	Construction Inspector*	\$230.00	\$271.00	\$314.00
11.	Kiah Tretter	Admin/Document Control Specialist	\$115.00	NA	NA
12.	Rhonda Barkey	Admin/Document Control Specialist	\$132.00	NA	NA

**\*Construction Inspector rates based off DIR Prevailing Wage SD-23-63-3-2024-2D, Group 2**

Subconsultants					
	Name / Firm	Title	Hourly Rate	OT Rate	DT Rate
1.	Oscar Mendoza (KCS)	Construction Manager / Resident Engineer	\$272.00	NA	NA
2.	Jeff Edwards (KCS)	Construction Inspector*	\$225.00	\$274.25	\$322.87
3.	Jay Losofsky (KCS)	Start-up support	\$233.00	NA	NA
4.	Teresa Gonzalez-White (GWCS)	Labor Compliance	\$120.00	NA	NA
5.	Gerald Montgomery	Principal / QSD	\$160.00	NA	NA
6.	Steven Branson (SQ)	Project Manager / QSD	\$150.00	NA	NA
7.	Julietta Viduya (SQ)	QSP	\$125.00	NA	NA
8.	Stan Olmos (SQ)	QSP	\$125.00	NA	NA
9.	Thomas Klein (RCS)	E & IC, Start-up Support	\$230.00	\$345.00	\$460.00

**MASTER AGREEMENT FOR AS-NEEDED HORIZONTAL CONSTRUCTION MANAGEMENT AND INSPECTION  
CPM PARTNERS, INC.**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2025, but effective August 18, 2025, by and between the City of Carlsbad, California, a municipal corporation ("City"), and CPM Partners, Inc., a California corporation ("Contractor").

**RECITALS**

- A. City requires the professional services of a consultant that is experienced in construction management and inspection for horizontal projects.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to as-needed horizontal construction management and inspection.
- D. Contractor has submitted a proposal to the city responsive to Request for Qualifications RFQ25-3671CMI and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

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**1. SCOPE OF WORK**

City retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A," which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area, and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective from the date first above written to Aug. 17, 2028. The City Manager may amend the Agreement to extend it for two (2) additional one (1) year periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, City needs, and appropriation of funds by the City Council. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by City and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the City Manager or the Division Director

("Director") as authorized by the City Manager. The City Manager or Director will give allowance for documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight on the part of Contractor, or delays caused by City inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed eight hundred thousand dollars (\$800,000) per Agreement year. If the City extends the Agreement pursuant to Section 3, the costs of services may increase by a maximum of 2% per Agreement year, if agreed to by both parties. Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A." Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, City shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for City, the City Manager or Director, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize City's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. Contractor is required to create a free web-based Procore user account(s) and utilize web-based training/tutorials (as needed) to become familiar with the system. Unless the City

Engineer approves otherwise, Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on projects. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. Contractor is responsible for attaining Contractor's own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to Contractor for use of Procore.

It is recommended that Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, requests for information, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

#### **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of City. Contractor will be under the control of City only as to the result to be accomplished, but will consult with City as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of City for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. City will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. City will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify City within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which City may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At the City's election, City may deduct the indemnification amount from any balance owing to Contractor.

#### **9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

#### **10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of City. If Contractor subcontracts any of the Services, Contractor will be fully responsible to City for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and City. Contractor will be responsible for payment of subcontractors. Contractor will bind

every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by City.

#### **11. OTHER CONTRACTORS**

The City reserves the right to employ other Contractors in connection with the Services.

#### **12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by the City), indemnify, and hold harmless the City and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorney's fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation program is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

#### **13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current Best's Key Rating of not less than "A-:VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

**13.1 Coverages and Limits.** Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability (CGL) Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to City's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 The City will be named as an additional insured on Commercial General Liability which shall provide primary coverage to the City.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to City sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to City's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to City.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then City will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by City to obtain or maintain insurance and City may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. City reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.



14. **BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

15. **ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

16. **OWNERSHIP OF DOCUMENTS**

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of City. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to City. Contractor will have the right to make one (1) copy of the work product for Contractor's records.

17. **COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in City and Contractor relinquishes all claims to the copyrights in favor of City.

18. **NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of City and on behalf of Contractor under this Agreement are:

For City:

Name	Jennifer Chapman
Title	Senior Contract Administrator
Dept	Public Works/CM&I
	CITY OF CARLSBAD
Address	1635 Faraday Ave.
	Carlsbad, CA 92008
Phone	442-339-2780

For Contractor:

Name	Alex Janecek
Title	Vice President
Address	523 Encinitas Blvd., #200
	Encinitas, CA 92024
Phone	310-989-3104
Email	<a href="mailto:alex@cpm-partners.com">alex@cpm-partners.com</a>

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

19. **GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services, the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or City will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, City may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If City decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, City may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by City and all work in progress to City at the address contained in this Agreement. City will make a determination of fact based upon the work product delivered to City and of the percentage of work that Contractor has performed which is usable and of worth to City in having the Agreement completed. Based upon that finding City will determine the final payment of the Agreement.

City may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to City. In the event of termination of this Agreement by either party and upon request of City, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to City. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. City will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award

or making of this Agreement. For breach or violation of this warranty, City will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any Agreement claim submitted to City must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to City, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act, applies to this Agreement and provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If City seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon City and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of City, which shall not be unreasonably withheld.

**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the City and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely

responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

### 31. **AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

CONTRACTOR  
CPM PARTNERS, INC., a California corporation

CITY OF CARLSBAD, a municipal corporation of  
the State of California

By:

Maribel Janecek

(sign here)

Maribel R. Janecek,  
President and Chief Financial Officer

(print name/title)

By:

(sign here)

(print name/title)

By:

KEITH BLACKBURN, Mayor

ATTEST:

SHERRY FREISINGER, City Clerk

By:

Director of Constituent & Clerk Services

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

Group A  
Chairman,  
President, **or**  
Vice-President

Group B  
Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, City Attorney

BY:

Cindie K. McMahon

**EXHIBIT A**

**SCOPE OF SERVICES AND FEES**

Contractor shall perform as-needed horizontal construction management and inspection services in accordance with the city's Request for Qualifications (RFQ25-3671CMI) dated March 5, 2025. The agreed upon billing rates for services outlined in said proposal are attached hereto.

All hours billed will be paid at a straight time rate; no overtime billing allowed.

Hours billed on a non-contractor workday must receive prior authorization by city staff.

Rates are inclusive of equipment, vehicle, mileage, laptop computers with wireless connections, cell phone, insurance, travel time, etc.

## Exhibit B - Rate Schedule

## CPM Partners

City of Carlsbad, RFQ25-3671CMI

Prices valid through initial Term of Agreement

## CPM Partners, Inc

	<u>NAME</u>	<u>TITLE</u>	<u>HOURLY RATE</u>
1	Alex Janecek, PE, CCM, QSD	RE, Sr. Scheduler, Sr. Claims	\$240.00
2	Gordon Costa, PE	Lead Scheduler, Claims	\$264.00
3	Ahmad Rafiq, PE	RE, Inspector	\$233.00
4	Pedro Aguilar	ARE, Inspector	\$224.00
5	Rafael Perez	OE, Inspector	\$224.00
6	Agustin Salinas, PE	OE, Inspector	\$165.00
7	Wendy Casdorff	Project Controls, Admin	\$133.00
8	Ylonda Miles	Admin / Document Control	\$120.00
9	Ryan Priestman, PMP	Scheduler, Claims Support	\$181.00
10	Melissa Leyendecker	OE, Admin	\$134.00
11	Erick Strickland	Constructability Reviewer	\$212.00
12			

## Sub-Consultants

	<u>NAME/FIRM</u>	<u>TITLE</u>	<u>HOURLY RATE</u>
1	Gannett Fleming, Inc.		Attached
2	Kleinfelder Construction Svcs		Attached
3	La Salle Solutions		Attached
4	New City Consulting		Attached
5	NOVA Services		Attached

## Expenses

	<u>DESCRIPTION</u>	<u>COST</u>	<u>% MARKUP</u>
1	n/a		
2			
3			
4			
5			

**Exhibit B - Rate Schedule****Gannett Fleming**

City of Carlsbad, RFQ25-3671CMI

Prices valid through initial Term of Agreement

**Gannett Fleming Revision 01**

	<u>NAME</u>	<u>TITLE</u>	<u>HOURLY RATE</u>
1	David Toschak (GAN)	Resident Engineer	\$216.62
2	David Cooper (GAN)	Resident Engineer	\$281.86
3	*Mike Broadwater (GAN)	SWPPP Inspector	\$232.95
4	*John Tonarely (GAN)	Inspector	\$232.95
5	*David Shepherd (GAN)	Inspector	\$199.94
6	Rhodie Lumanog (GAN)	Labor Compliance	\$145.26
7	Jim Gallego (GAN)	Scheduler	\$240.00
9			
10			
11			
12			

**Sub-Consultants**

	<u>NAME/FIRM</u>	<u>TITLE</u>	<u>HOURLY RATE</u>
1			
2			
3			
4			
5			

**Expenses**

	<u>DESCRIPTION</u>	<u>COST</u>	<u>% MARKUP</u>
1	Vehicle	\$1,242.62	0%
2			
3			
4			
5			

\* Denotes employees/classifications that are subject to CA prevailing wage. Rates above are day-shift straight-time rates.

Night work and Overtime will be billed at a pro-rata adjusted rate.

**Exhibit B - Rate Schedule****Kleinfelder Construction Services**

City of Carlsbad, RFQ25-3671CMI

Prices valid through initial Term of Agreement

<b>Kleinfelder Construction Services</b>			
	<u>NAME</u>	<u>TITLE</u>	<u>HOURLY RATE</u>
1	Matt Burris, PE, QSD (KCS)	Resident Engineer	\$208.00
2	James Foote (KCS)	ARE/Inspector	\$199.00
3	Claire Fetros (KCS)	ARE/Inspector	\$199.00
4	Brian O'Dell, EIT (KCS)	ARE/Inspector	\$199.00
5	Joe Massie (KCS)	ARE/Inspector	\$199.00
6	Mark Plotnikiewicz, PE, QSD (KCS)	Senior Scheduler	\$260.00
7			

<b>Sub-Consultants</b>			
	<u>NAME/FIRM</u>	<u>TITLE</u>	<u>HOURLY RATE</u>
1			
2			
3			
4			
5			

<b>Expenses</b>			
	<u>DESCRIPTION</u>	<u>COST</u>	<u>% MARKUP</u>
1	Field Vehicle	\$1485/Month	0%
2			
3			
4			
5			



**Exhibit B - Rate Schedule****La Salle Solutions LLC**

City of Carlsbad, RFQ25-3671CMI

Prices valid through initial Term of Agreement

La Salle Solutions			
	<u>NAME</u>	<u>TITLE</u>	<u>HOURLY RATE</u>
1	Enrique Castaneda	CM/RE	\$235.00
2	Samuel Virgil	CM/RE	\$235.00
3	Robin Wollen	Construction Inspector	\$235.00
4			
5			
6			
7			
8			
9			
10			
11			
12			

Sub-Consultants			
	<u>NAME/FIRM</u>	<u>TITLE</u>	<u>HOURLY RATE</u>
1			
2			
3			
4			
5			

Expenses			
	<u>DESCRIPTION</u>	<u>COST</u>	<u>% MARKUP</u>
1	Mileage	per IRS rate	
2			
3			
4			
5			

**Exhibit B - Rate Schedule****New City Consulting**

City of Carlsbad, RFQ25-3671CMI

Prices valid through initial Term of Agreement

New City Consulting			
	<u>NAME</u>	<u>TITLE</u>	<u>HOURLY RATE</u>
1	Patrick Nolan (NEW)	Senior Construction Manager	\$233.00
2	Matthew Horak (NEW)	Construction Manager	\$198.00
3	Mark Brunelle (NEW)	Senior Construction Inspector	\$185.00
4	Lisa Brennan (NEW)	Assistant Construction Manager	\$166.00
5	Jessica Poorman (NEW)	Certified Payroll Compliance	\$130.00
6			
7			
8			
9			
10			
11			
12			

Sub-Consultants			
	<u>NAME/FIRM</u>	<u>TITLE</u>	<u>HOURLY RATE</u>
1			
2			
3			
4			
5			

Expenses			
	<u>DESCRIPTION</u>	<u>COST</u>	<u>% MARKUP</u>
1			
2			
3			
4			
5			

**Exhibit B - Rate Schedule****Nova Services**

City of Carlsbad, RFQ25-3671CMI

Prices valid through initial Term of Agreement

Nova Services			
	<u>NAME</u>	<u>TITLE</u>	<u>HOURLY RATE</u>
1	Tom Canady (Nova)	Principal Engineer	\$240.00
2	Adam Greening (Nova)	Laboratory Manager	\$110.00
3	Simon Sayavanh (Nova)	Special Inspector	\$142.00
4	Morgan Lamb (Nova)	Special Inspector	\$142.00
5	Steve Hamlin (Nova)	Field Technician	\$140.00
6	Brian Steinhauer (Nova)	Field Technician	\$140.00
7			
8			
9			
10			
11			
12			

Sub-Consultants			
	<u>NAME/FIRM</u>	<u>TITLE</u>	<u>HOURLY RATE</u>
1			
2			
3			
4			

Expenses			
	<u>DESCRIPTION</u>	<u>COST</u>	<u>% MARKUP</u>
1	Monthly MetaField Reporting	\$425/month	0%
2	Coring Two Man Crew	\$345/hour	0%
3			
4			
5			

**MASTER AGREEMENT FOR AS-NEEDED HORIZONTAL CONSTRUCTION  
MANAGEMENT AND INSPECTION  
KLEINFELDER CONSTRUCTION SERVICES, INC.**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2025, but effective August 18, 2025, by and between the City of Carlsbad, California, a municipal corporation ("City"), and Kleinfelder Construction Services, Inc. a California corporation ("Contractor").

**RECITALS**

- A. City requires the professional services of a consultant that is experienced in construction management and inspection for horizontal projects.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to as-needed horizontal construction management and inspection.
- D. Contractor has submitted a proposal to the city responsive to Request for Qualifications RFQ25-3671CMI and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, City and Contractor agree as follows:

**1. SCOPE OF WORK**

City retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A," which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area, and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective from the date first above written to Aug. 17, 2028. The City Manager may amend the Agreement to extend it for two (2) additional one (1) year periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, City needs, and appropriation of funds by the City Council. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by City and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the City Manager or the Division Director

("Director") as authorized by the City Manager. The City Manager or Director will give allowance for documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight on the part of Contractor, or delays caused by City inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed eight hundred thousand dollars (\$800,000) per Agreement year. If the City extends the Agreement pursuant to Section 3, the costs of services may increase by a maximum of 2% per Agreement year, if agreed to by both parties. Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A." Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, City shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for City, the City Manager or Director, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize City's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. Contractor is required to create a free web-based Procore user account(s) and utilize web-based training/tutorials (as needed) to become familiar with the system. Unless the City

Engineer approves otherwise, Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on projects. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. Contractor is responsible for attaining Contractor's own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to Contractor for use of Procore.

It is recommended that Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, requests for information, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

#### **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of City. Contractor will be under the control of City only as to the result to be accomplished, but will consult with City as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of City for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. City will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. City will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify City within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which City may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At the City's election, City may deduct the indemnification amount from any balance owing to Contractor.

#### **9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

#### **10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of City. If Contractor subcontracts any of the Services, Contractor will be fully responsible to City for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and City. Contractor will be responsible for payment of subcontractors. Contractor will bind

every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by City.

#### **11. OTHER CONTRACTORS**

The City reserves the right to employ other Contractors in connection with the Services.

#### **12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by the City), indemnify, and hold harmless the City and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorney's fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation program is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

#### **13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current Best's Key Rating of not less than "A-:VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

**13.1 Coverages and Limits.** Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability (CGL) Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to City's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 The City will be named as an additional insured on Commercial General Liability which shall provide primary coverage to the City.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to City sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to City's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to City.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then City will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by City to obtain or maintain insurance and City may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. City reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.



**14. BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

**15. ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

**16. OWNERSHIP OF DOCUMENTS**

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of City. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to City. Contractor will have the right to make one (1) copy of the work product for Contractor's records.

**17. COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in City and Contractor relinquishes all claims to the copyrights in favor of City.

**18. NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of City and on behalf of Contractor under this Agreement are:

For City:

Name	Jennifer Chapman
Title	Senior Contract Administrator
Dept	Public Works/CM&I
	CITY OF CARLSBAD
Address	1635 Faraday Ave.
	Carlsbad, CA 92008
Phone	442-339-2780

For Contractor:

Name	Mark Plotnikiewicz
Title	PE, QSD
Address	5761 Copley Drive, Suite 100
	San Diego, CA 92111
Phone	858-223-8480
Email	<a href="mailto:mplotnikiewicz@kleinfelder.com">mplotnikiewicz@kleinfelder.com</a>

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

**19. GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services, the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or City will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, City may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If City decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, City may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by City and all work in progress to City at the address contained in this Agreement. City will make a determination of fact based upon the work product delivered to City and of the percentage of work that Contractor has performed which is usable and of worth to City in having the Agreement completed. Based upon that finding City will determine the final payment of the Agreement.

City may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to City. In the event of termination of this Agreement by either party and upon request of City, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to City. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. City will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award

or making of this Agreement. For breach or violation of this warranty, City will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any Agreement claim submitted to City must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to City, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act, applies to this Agreement and provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If City seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon City and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of City, which shall not be unreasonably withheld.

**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the City and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely

responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

### 31. **AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

CONTRACTOR  
KLEINFELDER CONSTRUCTION SERVICES, INC.,  
a California corporation

CITY OF CARLSBAD, a municipal corporation of  
the State of California

By:

Richard Fitterer

(sign here)

Rich Fitterer  
Vice President & Area Manager  
(print name/title)

By:

(sign here)

(print name/title)

By:

KEITH BLACKBURN, Mayor

ATTEST:

SHERRY FREISINGER, City Clerk

By:

Director of Constituent & Clerk Services

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

Group A  
Chairman,  
President, **or**  
Vice-President

Group B  
Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, City Attorney

BY: Cindie K. McMahon

**EXHIBIT A**

**SCOPE OF SERVICES AND FEES**

Contractor shall perform as-needed horizontal construction management and inspection services in accordance with the city's Request for Qualifications (RFQ25-3671CMI) dated March 5, 2025. The agreed upon billing rates for services outlined in said proposal are attached hereto.

All hours billed will be paid at a straight time rate; no overtime billing allowed.

Hours billed on a non-contractor workday must receive prior authorization by city staff.

Rates are inclusive of equipment, vehicle, mileage, laptop computers with wireless connections, cell phone, insurance, travel time, etc.

**KLEINFELDER CONSTRUCTION SERVICES BILLING RATES  
CITY OF CARLSBAD  
AS-NEEDED HORIZONTAL CONSTRUCTION MANAGEMENT AND INSPECTION SERVICES**

**(NON-PREVAILING WAGE)**

<b>Field Staffing Position</b>	<b>Straight Time (\$/Hr Range)</b>
Project Manager	\$273
Safety Inspector	\$263
Construction Manager	\$264
Schedule Engineer	\$273
Resident Engineer	\$220 - \$242
Senior Inspector – Non PW	\$195 - \$220
Wastewater Senior Inspector – Non PW	\$195 - \$220
Office Engineer	\$155 - \$180
Structures Representative	\$205 - \$225

**(PREVAILING WAGE)**

<b>Field Staffing Position</b>	<b>Straight Time</b>
Safety Inspector – PW	\$263
Senior Inspector – PW	\$199 - \$225
Structures Inspector – PW	\$199 - \$225
Wastewater Senior Inspector – PW	\$199 - \$225

Hourly charges include provisions for normal overhead costs such as fringe benefits, insurance, clerical services, equipment, normal supplies and materials. Field personnel are equipped with work trucks, cell phone/radios, laptop computers and basic tools. All other direct costs shall be reimbursed at a rate of costs plus 10%.

Mileage costs for construction managers and inspectors are included in our hourly rate, and we will not be billing separately for mileage expenses for work performed in those classifications. Also, all equipment, cell phones, laptops, insurance, and vehicle charges are included in the hourly rates as well, for all classifications.

<b>SUB-CONSULTANTS</b>			
<b>Firm Name: <u>CPM Partners</u></b>			
	<b><u>NAME/FIRM</u></b>	<b><u>TITLE</u></b>	<b><u>HOURLY RATE</u></b>
1.	Alex Janecek, PE, CCM, QSD	RE, Sr. Scheduler, Sr. Claims	\$252.00
2.	Gordon Costa, PE	Lead Scheduler, Claims	\$277.20
3.	Ahmad Rafiq, PE	RE, Inspector	\$244.65
4.	Pedro Aguilar	ARE, Inspector	\$235.20
5.	Rafael Perez	OE, Inspector	\$235.20
6.	Agusting Salinas, PE	OE, Inspector	\$173.25
7.	Wendy Casdorff	Project Controls, Admin	\$139.65
8.	Ylonda Miles	Admin / Document Control	\$126.00
9.	Ryan Priestman, PMP	Scheduler, Claims Support	\$190.05
10.	Mellissa Leyendecker	OE, Admin	\$140.70
11.	Erick Strickland	Constructability Reviewer	\$222.60

Note: The rates for CPM partners include a 5% subconsultant markup

**MASTER AGREEMENT FOR AS-NEEDED HORIZONTAL CONSTRUCTION MANAGEMENT AND INSPECTION  
VALLEY CM, INC. D.B.A. VALLEY CONSTRUCTION MANAGEMENT**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2025, but effective August 18, 2025, by and between the City of Carlsbad, California, a municipal corporation ("City"), and Valley CM, Inc., a California corporation d.b.a. Valley Construction Management ("Contractor").

**RECITALS**

- A. City requires the professional services of a consultant that is experienced in construction management and inspection for horizontal projects.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to as-needed horizontal construction management and inspection.
- D. Contractor has submitted a proposal to the city responsive to Request for Qualifications RFQ25-3671CMI and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, City and Contractor agree as follows:

**1. SCOPE OF WORK**

City retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A," which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area, and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective from the date first above written to Aug. 17, 2028. The City Manager may amend the Agreement to extend it for two (2) additional one (1) year periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, City needs, and appropriation of funds by the City Council. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by City and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the City Manager or the Division Director



("Director") as authorized by the City Manager. The City Manager or Director will give allowance for documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight on the part of Contractor, or delays caused by City inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed eight hundred thousand dollars (\$800,000) per Agreement year. If the City extends the Agreement pursuant to Section 3, the costs of services may increase by a maximum of 2% per Agreement year, if agreed to by both parties. Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A." Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, City shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for City, the City Manager or Director, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize City's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. Contractor is required to create a free web-based Procore user account(s) and utilize web-based training/tutorials (as needed) to become familiar with the system. Unless the City

Engineer approves otherwise, Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on projects. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. Contractor is responsible for attaining Contractor's own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to Contractor for use of Procore.

It is recommended that Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, requests for information, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

#### **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of City. Contractor will be under the control of City only as to the result to be accomplished, but will consult with City as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of City for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. City will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. City will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify City within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which City may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At the City's election, City may deduct the indemnification amount from any balance owing to Contractor.

#### **9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

#### **10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of City. If Contractor subcontracts any of the Services, Contractor will be fully responsible to City for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and City. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement

applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by City.

#### **11. OTHER CONTRACTORS**

The City reserves the right to employ other Contractors in connection with the Services.

#### **12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by the City), indemnify, and hold harmless the City and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorney's fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation program is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

#### **13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current Best's Key Rating of not less than "A-:VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

**13.1 Coverages and Limits.** Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

**13.1.1 Commercial General Liability (CGL) Insurance.** Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general

aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to City's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 The City will be named as an additional insured on Commercial General Liability which shall provide primary coverage to the City.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to City sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to City's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to City.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then City will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by City to obtain or maintain insurance and City may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. City reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

#### 14. BUSINESS LICENSE

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

15. **ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

16. **OWNERSHIP OF DOCUMENTS**

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of City. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to City. Contractor will have the right to make one (1) copy of the work product for Contractor’s records.

17. **COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in City and Contractor relinquishes all claims to the copyrights in favor of City.

18. **NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of City and on behalf of Contractor under this Agreement are:

For City:

Name	Jennifer Chapman
Title	Senior Contract Administrator
Dept	Public Works/CM&I
	CITY OF CARLSBAD
Address	1635 Faraday Ave.
	Carlsbad, CA 92008
Phone	442-339-2780

For Contractor:

Name	Paul Mochel
Title	Principal Construction Manager
Address	3525 Del Mar Heights Rd., #192
	San Diego, CA 92130
Phone	858-444-6804
Email	<a href="mailto:paul.mochel@valleycm.com">paul.mochel@valleycm.com</a>

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

19. **GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor’s services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services, the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or City will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, City may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If City decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, City may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by City and all work in progress to City at the address contained in this Agreement. City will make a determination of fact based upon the work product delivered to City and of the percentage of work that Contractor has performed which is usable and of worth to City in having the Agreement completed. Based upon that finding City will determine the final payment of the Agreement.

City may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to City. In the event of termination of this Agreement by either party and upon request of City, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to City. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. City will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, City will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any Agreement claim submitted to City must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to City, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act, applies to this Agreement and provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If City seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon City and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of City, which shall not be unreasonably withheld.

**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the City and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible,

for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

### 31. **AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

CONTRACTOR  
VALLEY CM, INC., a California corporation  
d.b.a. Valley Construction Management

CITY OF CARLSBAD, a municipal corporation of  
the State of California

By:

*Galina Mochel*

(sign here)

Galina Mochel, President

(print name/title)

By:

*Paul Mochel*

(sign here)

Paul Mochel, Secretary

(print name/title)

By:

KEITH BLACKBURN, Mayor

ATTEST:

SHERRY FREISINGER, City Clerk

By:

Director of Constituent & Clerk Services

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

Group A  
Chairman,  
President, **or**  
Vice-President

Group B  
Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, City Attorney

BY:

*Cindie K. McMahon*



**EXHIBIT A**

**SCOPE OF SERVICES AND FEES**

Contractor shall perform as-needed horizontal construction management and inspection services in accordance with the city's Request for Qualifications (RFQ25-3671CMI) dated March 5, 2025. The agreed upon billing rates for services outlined in said proposal are attached hereto.

All hours billed will be paid at a straight time rate; no overtime billing allowed.

Hours billed on a non-contractor workday must receive prior authorization by city staff.

Rates are inclusive of equipment, vehicle, mileage, laptop computers with wireless connections, cell phone, insurance, travel time, etc.

Master Agreement Consulting Services  
Request for Qualifications (RFQ)  
RFQ25-3671CMI /Discipline No. 1  
As-Needed Horizontal CM&I

Rate Schedule

The following rates are based on prevailing wage rates. The hourly rates for all classifications include all typical direct costs (mileage, equipment including cell phone, laptop, insurance, vehicle charges, etc.).

Name	Title	Hourly Rate
Paul Mochel, PE, CCM	Project Executive	\$190
Lisa Laszlo, CCM	Construction Manager/Inspector	\$180
George Foote	Construction Manager/Inspector	\$180
Chris Marquardt, CCM, ICC	Construction Manager/Inspector	\$180
Matt Luttrell	Senior Inspector	\$165
James Gaddis	Senior Inspector	\$165

**MASTER AGREEMENT FOR LANDSCAPE ARCHITECTURAL SERVICES  
MOORE IACOFANO GOLTSMAN INCORPORATED**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day June, 2025, but effective July 1, 2025, by and between the City of Carlsbad, California, a municipal corporation, ("City"), and Moore Iacofano Goltsman, Incorporated, a California corporation ("Contractor").

**RECITALS**

- A. City requires the professional services of a consultant that is experienced landscape architectural services.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to landscape architectural services.
- D. Contractor has submitted a proposal to the city responsive to Request for Qualifications RFQ25-3437CA and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, City and Contractor agree as follows:

**1. SCOPE OF WORK**

City retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A", which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective for a period of three (3) years from July 1, 2025, through June 30, 2028. The City Manager may amend the Agreement to extend it for two (2) additional one (1) year(s) periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, City needs, and appropriation of funds by the City Council. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by City and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the City Manager or the Division Director ("Director") as authorized by the City Manager. The City Manager or Director will give allowance for documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight

on the part of Contractor, or delays caused by City inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed seven hundred and fifty thousand dollars (\$750,000). Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, City shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for City, the City Manager or Director, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

If the City elects to extend the term of the Master Services Agreement, adjustments to the rate schedule may be permitted. Upon receipt of a written request from the Contractor, the City may consider approving a rate schedule increase. Rate schedule increases will be considered for each anniversary of the Agreement effective date after the initial three-year term. An increase to the rate schedule will be calculated based on the proceeding 12-month percentage change in the Consumer Price Index, San Diego Area, for All Urban Customers (CPI-U), as reported by the Bureau of Labor Statistics or 5.0%, whichever is lower. If the CPI-U is a negative number, then the rate schedule will not be adjusted for that year. The Contractor must submit a request and justification to increase the rate schedule at least sixty days prior to the anniversary of the effective date, assuming the City opt to extend the Master Services Agreement. The justification accompanying the written request should detail the rationale for the requested adjustment, and the requested adjustment amount, supported by relevant documentation (e.g., CPI-U or 5.0%, whichever is less). Approval of rate schedule increase by the City must be documented in an amendment to the Agreement.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in

the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize the Owner's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. The Contractor is required to create a free web-based Procore user account(s) and utilize web-based training / tutorials (as needed) to become familiar with the system. Unless the Engineer approves otherwise, the Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. The Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of the Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that the Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, RFIs, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

## **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of City. Contractor will be under control of City only as to the result to be accomplished, but will consult with City as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of City for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. City will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. City will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify City within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which City may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At the City's election, City may deduct the indemnification amount from any balance owing to Contractor.

**9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

**10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of City. If Contractor subcontracts any of the Services, Contractor will be fully responsible to City for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and City. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by City.

**11. OTHER CONTRACTORS**

The City reserves the right to employ other Contractors in connection with the Services.

**12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by the City), indemnify, and hold harmless the City and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation program is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

**13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current

Best's Key Rating of not less than "A-:VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

13.1 Coverages and Limits. Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability (CGL) Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to City's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 The City will be named as an additional insured on Commercial General Liability which shall provide primary coverage to the City.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to City sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to City's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to City.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then City will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by City to obtain or maintain insurance and City may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. City reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

14. **BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

15. **ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

16. **OWNERSHIP OF DOCUMENTS**

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of City. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to City. Contractor will have the right to make one (1) copy of the work product for Contractor's records.

17. **COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in City and Contractor relinquishes all claims to the copyrights in favor of City.

18. **NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of City and on behalf of Contractor under this Agreement are:

<u>For City:</u>	
Name	Eleida Felix Yackel
Title	Senior Contract Administrator
Dept	Public Works/ Contract Admin
	CITY OF CARLSBAD
Address	1635 Faraday Ave.
	Carlsbad, CA 92008

<u>For Contractor:</u>	
Name	Daniel Iacofano
Title	President & CEO
Address	800 Hearst Avenue
	Berkeley, CA 94710
Phone	5108457549
Email	danieli@migcom.com



Phone 442-339-2767

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

**19. GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or City will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, City may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If City decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, City may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by City and all work in progress to City at the address contained in this Agreement. City will make a determination of fact based upon the work product delivered to City and of the percentage of work that Contractor has performed which is

usable and of worth to City in having the Agreement completed. Based upon that finding City will determine the final payment of the Agreement.

City may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to City. In the event of termination of this Agreement by either party and upon request of City, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to City. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. City will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, City will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any Agreement claim submitted to City must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to City, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If City seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon City and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of City, which shall not be unreasonably withheld.

**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the City and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract, and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}

CONTRACTOR  
MOORE IACOFANO GOLTSMAN,  
INCORPORATED, a California corporation

CITY OF CARLSBAD, a municipal  
corporation of the State of California

By: Daniel Iacofano

(sign here)

Daniel Iacofano,  
President and Chief Financial Officer  
(print name/title)

By:

(sign here)

(print name/title)

By:

Keith Blackburn, Mayor

ATTEST:

SHERRY FREISINGER, City Clerk

By:

Faviola Medina,  
Director of Constituent & Clerk Services

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

**Group A**  
Chairman,  
President, **or**  
Vice-President

**Group B**  
Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, City Attorney

BY: Cindie K. McMahon

**EXHIBIT A****SCOPE OF SERVICES AND FEES**

Perform a variety of landscape architectural tasks as outlined in individual Project Task Descriptions & Fee Allotments (PTD&FA), related to the following:

- A. Landscape architectural design and specifications.
- B. Public Outreach.
- C. Universal and inclusive design and specifications.
- D. All phases of project development: Master Plans, Schematic Design, Design Development, Construction Documents, Plan Check, Bid Phase support, and Construction Administration.
- E. Budget estimates and project schedules.
- F. Entitlements and permitting.
- G. Bid Package Development.
- H. Final inspection and project completion acceptance.
- I. Staff extension for graphic production, modeling, drafting services or other related tasks.

Requests for work not listed above must be contracted under separate agreement.

## Fee Schedule

STAFF		
NAME	TITLE	HOURLY RATE
Richard D. Barrett	Principal-in-Charge	\$265
Eric Ellinwood	Project Manager	\$170
Fernanda Suarez	Senior Project Associate	\$120
Oscar Johnson	Landscape Architect	\$195
Holly De La Torre	Landscape Designer	\$135
Nathaniel Riedy	Senior Civil Engineer	\$220
Maika Nicholson	Senior Civil Engineer	\$230
Dino Viale	Irrigation Specialist	\$165

SUB-CONSULTANTS		
NAME/FIRM	TITLE	HOURLY RATE
Mary Elizabeth Westrum/Dokken Engineering	Civil Engineer	\$295
Daniel ZumMallen/Sweeney + Associates	Water Engineer	\$220
Kenneth Perez/Visual Concepts Lighting, Inc.	Lighting Engineer	\$205

EXPENSES		
DESCRIPTION	COST	% MARKUP
Commercial Travel	At Cost	10%
Automobile Travel	Current IRS Rate	
Lodging/Meals	At cost	10%
Photocopy (A and B Sizes)	\$0.10 / image	
Color Copies	\$0.50 / image	
Commercial Report Reproduction	At cost	10%
Subcontractors	At cost	10%
Other (Lab, Materials, Equipment Rental, Etc.)	At cost	10%

**MASTER AGREEMENT FOR LANDSCAPE ARCHITECTURAL SERVICES  
SCHMIDT DESIGN GROUP, INC.**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day June, 2025, but effective July 1, 2025, by and between the City of Carlsbad, California, a municipal corporation, ("City"), and Schmidt Design Group, Inc., a California corporation ("Contractor").

**RECITALS**

- A. City requires the professional services of a consultant that is experienced in landscape architectural services.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to landscape architectural services.
- D. Contractor has submitted a proposal to the city responsive to Request for Qualifications RFQ25-3437CA and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, City and Contractor agree as follows:

**1. SCOPE OF WORK**

City retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A", which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective for a period of three (3) years from July 1, 2025, through June 30, 2028. The City Manager may amend the Agreement to extend it for two (2) additional one (1) year(s) periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, City needs, and appropriation of funds by the City Council. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by City and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the City Manager or the Division Director ("Director") as authorized by the City Manager. The City Manager or Director will give allowance for documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight

on the part of Contractor, or delays caused by City inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed seven hundred and fifty thousand dollars (\$750,000). Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, City shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for City, the City Manager or Director, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

If the City elects to extend the term of the Master Services Agreement, adjustments to the rate schedule may be permitted. Upon receipt of a written request from the Contractor, the City may consider approving a rate schedule increase. Rate schedule increases will be considered for each anniversary of the Agreement effective date after the initial three-year term. An increase to the rate schedule will be calculated based on the proceeding 12-month percentage change in the Consumer Price Index, San Diego Area, for All Urban Customers (CPI-U), as reported by the Bureau of Labor Statistics or 5.0%, whichever is lower. If the CPI-U is a negative number, then the rate schedule will not be adjusted for that year. The Contractor must submit a request and justification to increase the rate schedule at least sixty days prior to the anniversary of the effective date, assuming the City opt to extend the Master Services Agreement. The justification accompanying the written request should detail the rationale for the requested adjustment, and the requested adjustment amount, supported by relevant documentation (e.g., CPI-U or 5.0%, whichever is less). Approval of rate schedule increase by the City must be documented in an amendment to the Agreement.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in



the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize the Owner's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. The Contractor is required to create a free web-based Procore user account(s) and utilize web-based training / tutorials (as needed) to become familiar with the system. Unless the Engineer approves otherwise, the Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. The Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of the Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that the Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, RFIs, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

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Contractor will not subcontract any portion of the Services without prior written approval of City. If Contractor subcontracts any of the Services, Contractor will be fully responsible to City for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and City. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by City.

**11. OTHER CONTRACTORS**

The City reserves the right to employ other Contractors in connection with the Services.

**12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by the City), indemnify, and hold harmless the City and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation program is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

**13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current

Best's Key Rating of not less than "A-:VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

13.1 Coverages and Limits. Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability (CGL) Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to City's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 The City will be named as an additional insured on Commercial General Liability which shall provide primary coverage to the City.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to City sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to City's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to City.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then City will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by City to obtain or maintain insurance and City may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. City reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

14. **BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

15. **ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

16. **OWNERSHIP OF DOCUMENTS**

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of City. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to City. Contractor will have the right to make one (1) copy of the work product for Contractor's records.

17. **COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in City and Contractor relinquishes all claims to the copyrights in favor of City.

18. **NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of City and on behalf of Contractor under this Agreement are:

<u>For City:</u>	
Name	Eleida Felix Yackel
Title	Senior Contract Administrator
Dept	Public Works/ Contract Admin
	CITY OF CARLSBAD
Address	1635 Faraday Ave.
	Carlsbad, CA 92008

<u>For Contractor:</u>	
Name	JT Barr
Title	President
Address	1310 Rosecrans St. Ste G
	San Diego, CA
Phone	619-236-1462
Email	jtbarra@schmidttdesign.com

Phone 442-339-2767

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

**19. GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or City will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, City may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If City decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, City may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by City and all work in progress to City at the address contained in this Agreement. City will make a determination of fact based upon the work product delivered to City and of the percentage of work that Contractor has performed which is

usable and of worth to City in having the Agreement completed. Based upon that finding City will determine the final payment of the Agreement.

City may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to City. In the event of termination of this Agreement by either party and upon request of City, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to City. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. City will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, City will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any Agreement claim submitted to City must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to City, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If City seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon City and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of City, which shall not be unreasonably withheld.

**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the City and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract, and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}

CONTRACTOR  
SCHMIDT DESIGN GROUP, INC., a California  
corporation

CITY OF CARLSBAD, a municipal  
corporation of the State of California

By: Jeffrey T. (JTB) Barr  
(sign here)

By: Keith Blackburn, Mayor

Jeffrey T. Barr,  
President and Chief Financial Officer  
(print name/title)

ATTEST:

SHERRY FREISINGER, City Clerk

By: \_\_\_\_\_  
(sign here)

By: Faviola Medina,  
Director of Constituent & Clerk Services

\_\_\_\_\_  
(print name/title)

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

**Group A**  
Chairman,  
President, **or**  
Vice-President

**Group B**  
Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, City Attorney

BY: Cindie K. McMahon



**EXHIBIT A****SCOPE OF SERVICES AND FEES**

Perform a variety of landscape architectural tasks as outlined in individual Project Task Descriptions & Fee Allotments (PTD&FA), related to the following:

- A. Landscape architectural design and specifications.
- B. Public Outreach.
- C. Universal and inclusive design and specifications.
- D. All phases of project development: Master Plans, Schematic Design, Design Development, Construction Documents, Plan Check, Bid Phase support, and Construction Administration.
- E. Budget estimates and project schedules.
- F. Entitlements and permitting.
- G. Bid Package Development.
- H. Final inspection and project completion acceptance.
- I. Staff extension for graphic production, modeling, drafting services or other related tasks.

Requests for work not listed above must be contracted under separate agreement.

CARLSBAD MASTER AGREEMENT  
LANDSCAPE ARCHITECTURE

HOURLY TIME AND MATERIALS FEE SCHEDULE

The following rates are valid for the first three (3) years of the agreement.

Fees will be charged for technical work, consultation, and additional services. Charges will be made for typing, as in the preparation of reports, and for time and costs of printing. No direct charges will be made for normal secretarial service, office management, or general accounting; these items are included in overhead.

HOURLY RATES | SCHMIDT DESIGN GROUP - PRIME, LANDSCAPE ARCHITECT

Principal Landscape Architect/President .....	\$300/hour
Principal Landscape Architect/Partner .....	\$250/hour
Principal/Studio Director .....	\$200/hour
Associate Landscape Architect .....	\$175/hour
Senior Project Manager/Licensed Landscape Architect/Certified Arborist .....	\$155/hour
Project Manager .....	\$140/hour
Senior Landscape Designer .....	\$125/hour
Landscape Designer .....	\$110/hour
Clerical/Typist.....	\$85/hour

HOURLY RATES | CR ASSOCIATES - SUBCONSULTANT, CIVIL ENGINEER

Principal .....	\$320/hour
Senior Professional II .....	\$295/hour
Senior Professional I .....	\$265/hour
Professional III .....	\$240/hour
Professional II .....	\$225/hour
Professional I .....	\$210/hour
Analyst III .....	\$195/hour
Analyst II.....	\$175/hour
Analyst I .....	\$160/hour
Support .....	\$130/hour

HOURLY RATES | ALYSON CONSULTING - SUBCONSULTANT, LAND SURVEYOR

<i>Non-Prevailing Wage</i>	
Principal Surveyor.....	\$220/hour
Professional Surveyor .....	\$220/hour
1-Person Survey Crew.....	\$250/hour
2-Person Survey Crew .....	\$275/hour
Supervision (1 hour per every 8 Crew hours).....	\$220/hour
Calculations of Additional Work .....	\$220/hour
CADD Data Processing.....	\$185/hour
<i>Prevailing Wage</i>	
1 Person Survey Crew .....	\$275/hour
2-Person Survey Crew .....	\$325/hour
Professional Land Surveyor.....	\$220/hour
Supervision (1 hour per every 7 Crew hours).....	\$220/hour
Calculations for Additional Work.....	\$220/hour
CADD Data Processing.....	\$185/hour

**MASTER AGREEMENT FOR LANDSCAPE ARCHITECTURAL SERVICES  
SMITHGROUP, INC. WHICH WILL DO BUSINESS IN CALIFORNIA AS  
SMITHGROUP ARCHITECTS AND ENGINEERS**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day June, 2025, but effective July 1, 2025, by and between the City of Carlsbad, California, a municipal corporation, ("City"), and SmithGroup, Inc. which will do business in California as SmithGroup Architects and Engineers, a Michigan corporation, ("Contractor").

**RECITALS**

- A. City requires the professional services of a consultant that is experienced in landscape architectural services.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to landscape architectural services.
- D. Contractor has submitted a proposal to the city responsive to Request for Qualifications RFQ25-3437CA and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, City and Contractor agree as follows:

**1. SCOPE OF WORK**

City retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A", which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective for a period of three (3) years from July 1, 2025, through June 30, 2028. The City Manager may amend the Agreement to extend it for two (2) additional one (1) year(s) periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, City needs, and appropriation of funds by the City Council. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by City and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may

be granted if requested by Contractor and agreed to in writing by the City Manager or the Division Director ("Director") as authorized by the City Manager. The City Manager or Director will give allowance for documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight on the part of Contractor, or delays caused by City inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed seven hundred and fifty thousand dollars (\$750,000). Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, City shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for City, the City Manager or Director, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

If the City elects to extend the term of the Master Services Agreement, adjustments to the rate schedule may be permitted. Upon receipt of a written request from the Contractor, the City may consider approving a rate schedule increase. Rate schedule increases will be considered for each anniversary of the Agreement effective date after the initial three-year term. An increase to the rate schedule will be calculated based on the proceeding 12-month percentage change in the Consumer Price Index, San Diego Area, for All Urban Customers (CPI-U), as reported by the Bureau of Labor Statistics or 5.0%, whichever is lower. If the CPI-U is a negative number, then the rate schedule will not be adjusted for that year. The Contractor must submit a request and justification to increase the rate schedule at least sixty days prior to the anniversary of the effective date, assuming the City opt to extend the Master Services Agreement. The justification accompanying the written request should detail the rationale for the requested adjustment, and the requested adjustment amount, supported by relevant documentation (e.g., CPI-U or 5.0%, whichever is less). Approval of rate schedule increase by the City must be documented in an amendment to the Agreement.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor

performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize the Owner's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. The Contractor is required to create a free web-based Procore user account(s) and utilize web-based training / tutorials (as needed) to become familiar with the system. Unless the Engineer approves otherwise, the Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. The Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of the Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that the Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, RFIs, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

## **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of City. Contractor will be under control of City only as to the result to be accomplished, but will consult with City as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of City for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. City will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. City will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify City within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which City may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At the City's election, City may deduct

the indemnification amount from any balance owing to Contractor.

**9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

**10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of City. If Contractor subcontracts any of the Services, Contractor will be fully responsible to City for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and City. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by City.

**11. OTHER CONTRACTORS**

The City reserves the right to employ other Contractors in connection with the Services.

**12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by the City), indemnify, and hold harmless the City and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation program is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

**13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in

connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current Best's Key Rating of not less than "A-:VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

13.1 Coverages and Limits. Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability (CGL) Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to City's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 The City will be named as an additional insured on Commercial General Liability which shall provide primary coverage to the City.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it

and will not be canceled without thirty (30) days prior written notice to City sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to City's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to City.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then City will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by City to obtain or maintain insurance and City may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. City reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

#### 14. BUSINESS LICENSE

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

#### 15. ACCOUNTING RECORDS

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

#### 16. OWNERSHIP OF DOCUMENTS

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of City. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to City. Contractor will have the right to make one (1) copy of the work product for Contractor's records.

#### 17. COPYRIGHTS

Contractor agrees that all copyrights that arise from the services will be vested in City and Contractor relinquishes all claims to the copyrights in favor of City.

#### 18. NOTICES

The name of the persons who are authorized to give written notice or to receive written notice on behalf of City and on behalf of Contractor under this Agreement are:

##### For City:

Name	<u>Eleida Felix Yackel</u>
Title	<u>Senior Contract Administrator</u>
Dept	<u>Public Works/ Contract Admin</u>
	<u>CITY OF CARLSBAD</u>

##### For Contractor:

Name	<u>Todd Kohli</u>
Title	<u>Senior Principal</u>
Address	<u>350 S Grand Ave Suite 1800</u>
	<u>Los Angeles, CA 90071</u>



Address	<u>1635 Faraday Ave.</u>	Phone	<u>415-994-3665</u>
	<u>Carlsbad, CA 92008</u>	Email	<u>todd.kohli@smithgroup.com</u>
Phone	<u>442-339-2767</u>		

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

#### **19. GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

#### **20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

#### **21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

#### **22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or City will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

#### **23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, City may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If City decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, City may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by City and all work in progress to

City at the address contained in this Agreement. City will make a determination of fact based upon the work product delivered to City and of the percentage of work that Contractor has performed which is usable and of worth to City in having the Agreement completed. Based upon that finding City will determine the final payment of the Agreement.

City may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to City. In the event of termination of this Agreement by either party and upon request of City, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to City. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. City will make the final determination as to the portions of tasks completed and the compensation to be made.

#### **24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, City will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

#### **25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any Agreement claim submitted to City must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to City, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If City seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

#### **26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

#### **27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon City and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become

due under it may be assigned by Contractor without the prior consent of City, which shall not be unreasonably withheld.

**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the City and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract, and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}

CONTRACTOR  
SMITHGROUP, INC. WHICH WILL DO BUSINESS  
IN CALIFORNIA AS SMITHGROUP ARCHITECTS  
AND ENGINEERS, a Michigan corporation

CITY OF CARLSBAD, a municipal  
corporation of the State of California

By: Todd Kohli, Senior Principal  
(sign here)

By: \_\_\_\_\_  
Keith Blackburn, Mayor

Todd Kohli, Senior Principal  
(print name/title)

ATTEST:

By: \_\_\_\_\_  
(sign here)

SHERRY FREISINGER, City Clerk

By: \_\_\_\_\_  
Faviola Medina,  
Director of Constituent & Clerk Services

\_\_\_\_\_  
(print name/title)

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

**Group A**  
Chairman,  
President, **or**  
Vice-President

**Group B**  
Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, City Attorney

BY: Cindie K. McMahon

## EXHIBIT A

### SCOPE OF SERVICES AND FEES

Perform a variety of landscape architectural tasks as outlined in individual Project Task Descriptions & Fee Allotments (PTD&FA), related to the following:

- A. Landscape architectural design and specifications.
- B. Public Outreach.
- C. Universal and inclusive design and specifications.
- D. All phases of project development: Master Plans, Schematic Design, Design Development, Construction Documents, Plan Check, Bid Phase support, and Construction Administration.
- E. Budget estimates and project schedules.
- F. Entitlements and permitting.
- G. Bid Package Development.
- H. Final inspection and project completion acceptance.
- I. Staff extension for graphic production, modeling, drafting services or other related tasks.

Requests for work not listed above must be contracted under separate agreement.

FEE SCHEDULE

Prices valid for the three (3) year term of the Master Services Agreement

STAFF

Wage Rates by Classification ~~2025~~ 2027

Landscape Architect I	\$140/hr
Landscape Architect II	\$165/hr
Landscape Architect III	\$200/hr
Landscape Architect IV	\$260/hr
Landscape Architect V	\$320/hr

SUBCONSULTANTS

KPFF Consulting Engineers

Principal-In-Charge	\$300.00
Senior Civil Engineer	\$245.00
Project Manager	\$225.00
Project Engineer/Project Surveyor	\$190.00
Design Engineer/Survey Analyst	\$175.00
Chief Cad Operator	\$200.00
Drafter/Cad Operator	\$175.00
Administrative Support	\$120.00

Field Survey – Prevailing Wage Rates

One-Person Survey Crew	\$210.00
Two-Person Survey Crew	\$350.00
Three-Person Survey Crew	\$415.00

Brinkerhoff and Associates

Design	\$180/hr
Construction Administration	\$180/hr
Site Observations	\$180/hr

EXPENSES

Description	Cost	% Mark up
Mileage	Per IRS rate	No Mark up
Other Expenses	Direct cost	No Mark up

Project Managers are billed at their classification rate.  
The terms “Architect”, “Landscape Architect” and “Engineer” are used for billing purposes only to indicate that the individual and may or may not be a licensed professional within the project jurisdiction.

**MASTER AGREEMENT FOR LANDSCAPE ARCHITECTURAL SERVICES  
SWA GROUP**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day June, 2025, but effective July 1, 2025, by and between the City of Carlsbad, California, a municipal corporation, ("City"), and SWA Group, a California corporation, ("Contractor").

**RECITALS**

- A. City requires the professional services of a consultant that is experienced in landscape architectural services.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to landscape architectural services.
- D. Contractor has submitted a proposal to the city responsive to Request for Qualifications RFQ25-3437CA and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, City and Contractor agree as follows:

**1. SCOPE OF WORK**

City retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A", which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective for a period of three (3) years from July 1, 2025, through June 30, 2028. The City Manager may amend the Agreement to extend it for two (2) additional one (1) year(s) periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, City needs, and appropriation of funds by the City Council. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by City and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the City Manager or the Division Director ("Director") as authorized by the City Manager. The City Manager or Director will give allowance for

documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight on the part of Contractor, or delays caused by City inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed seven hundred and fifty thousand dollars (\$750,000). Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, City shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for City, the City Manager or Director, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

If the City elects to extend the term of the Master Services Agreement, adjustments to the rate schedule may be permitted. Upon receipt of a written request from the Contractor, the City may consider approving a rate schedule increase. Rate schedule increases will be considered for each anniversary of the Agreement effective date after the initial three-year term. An increase to the rate schedule will be calculated based on the proceeding 12-month percentage change in the Consumer Price Index, San Diego Area, for All Urban Customers (CPI-U), as reported by the Bureau of Labor Statistics or 5.0%, whichever is lower. If the CPI-U is a negative number, then the rate schedule will not be adjusted for that year. The Contractor must submit a request and justification to increase the rate schedule at least sixty days prior to the anniversary of the effective date, assuming the City opt to extend the Master Services Agreement. The justification accompanying the written request should detail the rationale for the requested adjustment, and the requested adjustment amount, supported by relevant documentation (e.g., CPI-U or 5.0%, whichever is less). Approval of rate schedule increase by the City must be documented in an amendment to the Agreement.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California



Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

#### **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize the Owner's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. The Contractor is required to create a free web-based Procore user account(s) and utilize web-based training / tutorials (as needed) to become familiar with the system. Unless the Engineer approves otherwise, the Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. The Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of the Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that the Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, RFIs, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

#### **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of City. Contractor will be under control of City only as to the result to be accomplished, but will consult with City as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of City for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. City will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. City will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify City within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which City may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At the City's election, City may deduct the indemnification amount from any balance owing to Contractor.

**9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

**10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of City. If Contractor subcontracts any of the Services, Contractor will be fully responsible to City for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and City. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by City.

**11. OTHER CONTRACTORS**

The City reserves the right to employ other Contractors in connection with the Services.

**12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by the City), indemnify, and hold harmless the City and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation program is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

**13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and

authorized to do business in the State of California. The insurance carrier is required to have a current Best's Key Rating of not less than "A-:VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

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13.1.1 Commercial General Liability (CGL) Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to City's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 The City will be named as an additional insured on Commercial General Liability which shall provide primary coverage to the City.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to City sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to City's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to City.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then City will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by City to obtain or maintain insurance and City may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. City reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

14. BUSINESS LICENSE

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

15. ACCOUNTING RECORDS

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

16. OWNERSHIP OF DOCUMENTS

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of City. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to City. Contractor will have the right to make one (1) copy of the work product for Contractor's records.

17. COPYRIGHTS

Contractor agrees that all copyrights that arise from the services will be vested in City and Contractor relinquishes all claims to the copyrights in favor of City.

18. NOTICES

The name of the persons who are authorized to give written notice or to receive written notice on behalf of City and on behalf of Contractor under this Agreement are:

For City:

Name	<u>Eleida Felix Yackel</u>
Title	<u>Senior Contract Administrator</u>
Dept	<u>Public Works/ Contract Admin</u>
	<u>CITY OF CARLSBAD</u>
Address	<u>1635 Faraday Ave.</u>
	<u>Carlsbad, CA 92008</u>

For Contractor:

Name	<u>Ying-yu Hung</u>
Title	<u>Managing Principal</u>
Address	<u>811 W. 7th Street, 8th Floor</u>
	<u>Los Angeles, CA 90017</u>
Phone	<u>(213) 236-9090</u>
Email	<u>Yhung@swagroup.com</u>

Phone 442-339-2767

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

**19. GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or City will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, City may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If City decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, City may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by City and all work in progress to City at the address contained in this Agreement. City will make a determination of fact based upon the work product delivered to City and of the percentage of work that Contractor has performed which is

usable and of worth to City in having the Agreement completed. Based upon that finding City will determine the final payment of the Agreement.

City may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to City. In the event of termination of this Agreement by either party and upon request of City, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to City. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. City will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, City will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any Agreement claim submitted to City must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to City, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If City seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon City and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of City, which shall not be unreasonably withheld.

**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the City and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract, and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}

CONTRACTOR  
SWA GROUP, a California corporation

CITY OF CARLSBAD, a municipal  
corporation of the State of California

By: Gerdo Aquino  
(sign here)

By: \_\_\_\_\_  
Keith Blackburn, Mayor

\_\_\_\_\_  
Gerdo P. Aquino, President  
(print name/title)

ATTEST:  
SHERRY FREISINGER, City Clerk

By: Ying-yu Hung, Managing Principal  
(sign here)

By: \_\_\_\_\_  
Faviola Medina,  
Director of Constituent & Clerk Services

\_\_\_\_\_  
Ying-yu Hung, Managing Principal  
(print name/title)

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

**Group A**  
Chairman,  
President, **or**  
Vice-President

**Group B**  
Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, City Attorney

BY: Cindie K. McMahon



## EXHIBIT A

### SCOPE OF SERVICES AND FEES

Perform a variety of landscape architectural tasks as outlined in individual Project Task Descriptions & Fee Allotments (PTD&FA), related to the following:

- A. Landscape architectural design and specifications.
- B. Public Outreach.
- C. Universal and inclusive design and specifications.
- D. All phases of project development: Master Plans, Schematic Design, Design Development, Construction Documents, Plan Check, Bid Phase support, and Construction Administration.
- E. Budget estimates and project schedules.
- F. Entitlements and permitting.
- G. Bid Package Development.
- H. Final inspection and project completion acceptance.
- I. Staff extension for graphic production, modeling, drafting services or other related tasks.

Requests for work not listed above must be contracted under separate agreement.

**SWa** Los Angeles      December 31, 2024

811 W. 7th Street, 8 Fl  
Los Angeles, California  
90017  
t: +1.213.236.9090  
f: +1.213.236.9091  
www.swagroup.com

**ATTACHMENT B - MASTER SERVICES AGREEMENT RATE SCHEDULE**  
**Category 6: Landscape Architecture Services**

SWA Services may be provided on a time basis computed by the number of hours spent in connection with the project. Current staff billing rates are shown in the table below.

**Staff Hourly Billing Rates per Hour**

Gerdo Aquino	Principal	\$352
Ying-yu Hung	Principal	\$341
Jeremy Klemic	Principal, Project Manager	\$220
Jana Wehby	Associate Principal, Project Manager	\$198
Tracie Chazares	Landscape Designer	\$115
Yining Wang	Landscape Designer	\$102
	Associates	\$120-175
	Designers	\$90-120

**Reimbursable Costs**

The following costs shall be reimbursed at cost plus ten percent (10%) and are not included in the Fee for Professional Services:

1. Cost of copies of drawings, specifications, reports and cost estimates; xerography and photographic reproduction of drawings and other documents furnished or prepared in connection with the work of this contract.
2. Cost of commercial carrier and public transportation, lodging, car rental and parking, subsistence and out-of-pocket expenses. Private automobile travel at the IRS-allowable rate at the time of traveling. International flights shall be business class.
3. Cost of postage and shipping expenses other than first class mail.
4. Special renderings, special process printing, special equipment, special printed reports or publications, maps and documents, requested by the Client and approved in writing.

## MASTER AGREEMENT FOR AS-NEEDED MATERIALS TESTING SERVICES ATLAS TECHNICAL CONSULTANTS LLC

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2025, but effective August 18, 2025, by and between the City of Carlsbad, California, a municipal corporation ("City"), and Atlas Technical Consultants LLC, a Delaware limited liability company ("Contractor").

### RECITALS

- A. City requires the professional services of a consultant that is experienced in materials testing.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to as-needed materials testing.
- D. Contractor has submitted a proposal to the city responsive to Request for Qualifications RFQ25-3671CMI and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, City and Contractor agree as follows:

### **1. SCOPE OF WORK**

City retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A," which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

### **2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area, and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

### **3. TERM**

The term of this Agreement will be effective from the date first above written to Aug. 17, 2028. The City Manager may amend the Agreement to extend it for two (2) additional one (1) year periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, City needs, and appropriation of funds by the City Council. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

### **4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by City and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the City Manager or the Division Director ("Director") as authorized by the City Manager. The City Manager or Director will give allowance for

documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight on the part of Contractor, or delays caused by City inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

#### **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed six hundred thousand dollars (\$600,000) per Agreement year. If the City extends the Agreement pursuant to Section 3, the costs of services may increase by a maximum of 2% per Agreement year, if agreed to by both parties. Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A." Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, City shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for City, the City Manager or Director, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

#### **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

#### **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize City's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. Contractor is required to create a free web-based Procore user account(s) and utilize web-based training/tutorials (as needed) to become familiar with the system. Unless the City Engineer approves otherwise, Contractor shall process all project documents through Procore because

this platform will be used to submit, track, distribute and collaborate on projects. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. Contractor is responsible for attaining Contractor's own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to Contractor for use of Procore.

It is recommended that Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, requests for information, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

#### **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of City. Contractor will be under the control of City only as to the result to be accomplished, but will consult with City as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of City for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. City will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. City will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify City within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which City may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At the City's election, City may deduct the indemnification amount from any balance owing to Contractor.

#### **9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

#### **10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of City. If Contractor subcontracts any of the Services, Contractor will be fully responsible to City for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and City. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement

applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by City.

#### **11. OTHER CONTRACTORS**

The City reserves the right to employ other Contractors in connection with the Services.

#### **12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by the City), indemnify, and hold harmless the City and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation program is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

#### **13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current Best's Key Rating of not less than "A-:VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

**13.1 Coverages and Limits.** Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability (CGL) Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to City's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 The City will be named as an additional insured on Commercial General Liability which shall provide primary coverage to the City.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to City sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to City's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to City.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then City will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by City to obtain or maintain insurance and City may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. City reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

14. **BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

15. **ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

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17. **COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in City and Contractor relinquishes all claims to the copyrights in favor of City.

18. **NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of City and on behalf of Contractor under this Agreement are:

<u>For City:</u>		<u>For Contractor:</u>	
Name	Jennifer Chapman	Name	Dan Ferguson
Title	Senior Contract Administrator	Title	Field Services Manager
Dept	Public Works/CM&I	Address	9085 Aero Drive Ste B
	CITY OF CARLSBAD		San Diego, CA 92123
Address	1635 Faraday Ave.	Phone	858-531-9777
	Carlsbad, CA 92008	Email	<a href="mailto:Daniel.Ferguson@oneatlas.com">Daniel.Ferguson@oneatlas.com</a>
Phone	442-339-2780		

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

19. **GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor’s services with all applicable laws, ordinances and regulations.



Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services, the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or City will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, City may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If City decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, City may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by City and all work in progress to City at the address contained in this Agreement. City will make a determination of fact based upon the work product delivered to City and of the percentage of work that Contractor has performed which is usable and of worth to City in having the Agreement completed. Based upon that finding City will determine the final payment of the Agreement.

City may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to City. In the event of termination of this Agreement by either party and upon request of City, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to City. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. City will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award

or making of this Agreement. For breach or violation of this warranty, City will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any Agreement claim submitted to City must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to City, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act, applies to this Agreement and provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If City seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorneys fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon City and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of City, which shall not be unreasonably withheld.

**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the City and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract, and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely

responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

### 31. **AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

CONTRACTOR

Atlas Technical Consultants LLC, a Delaware  
limited liability company

By:

Yashar Hooshvar

(sign here)

Yashar Hooshvar, Hub Leader

(print name/title)

By:

(sign here)

(print name/title)

CITY OF CARLSBAD, a municipal corporation of  
the State of California

By:

KEITH BLACKBURN, Mayor

ATTEST:

SHERRY FREISINGER, City Clerk

By:

Director of Constituent & Clerk Services

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

Group A  
Chairman,  
President, **or**  
Vice-President

Group B  
Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, City Attorney

BY: Cindie K. McMahon

**EXHIBIT A****SCOPE OF SERVICES AND FEES**

Contractor shall perform as-needed materials testing services in accordance with the City's Request for Qualifications (RFQ25-3671CMI) dated March 5, 2025.

The City will normally schedule work on a prior day basis. The firm's technical shall be onsite within fifteen (15) minutes of the scheduled time and is expected to be prepared to perform the requested tests and tasks. Costs incurred by the City due to time delays created by the materials testing firm shall be at the expense of said firm. The City will make every effort to coordinate work to allow use of a single technician, but is under no obligation to do so. The City may schedule or reschedule work on a same day basis if a technician is available. The City will not be held liable for any test cancellation that occurred at least two (2) hours prior to the scheduled time. The City will only pay for time spent on site; no charges for mileage or travel time. Rates should be inclusive of vehicle usage and administrative time, which includes coordination, scheduling, billing, etc. The cost of each test performed will also be an inclusive rate that includes vehicle usage, the test, the tools needed to perform the test, the report, pickup and drop off. Time will be billed in 2-hour increments with a 2-hour minimum.

Invoices for services are expected to be reviewed for accuracy before being submitted to the City.

Compaction test reports will be made available in the field at the time of testing where sampling for maximum densities was made available two (2) days prior to testing of soils and aggregates, and the same day for asphalt concrete. When proctors for maximum densities are not available on the day of testing, compaction test results shall be available no later than the next day. Contractor will prepare and submit a formal report as soon as that segment of work is completed or when otherwise requested by the City.

**FEE SCHEDULE****MASTER AGREEMENT RATE SCHEDULE**

<b>STAFF</b>	<b>TITLE</b>	<b>HOURLY RATE</b>
Daniel Ferguson	Project Manager	\$190
Erick Aldrich	Principal Engineer	\$250
Morteza Mirshekari	Senior Professional	\$250
Dale Bodman	Senior Professional	\$215
Bryan Rall	Senior Geologist	\$215
Austin Hill	Director of Lab Services	\$190
Daniel Broyles	Field Services Manager	\$190
Chad Bartley	Field Technician	\$142
Anthony Stewart	Field Technician	\$142
Raul Tena	Field Technician	\$142
Peter SteinGillette	Field Technician	\$142
Ismael Gonzalez	Field Technician	\$142
Chris Castaneda	Special Inspector	\$146
Nate Bachour	Special Inspector	\$146
Sam Carbajal	Special Inspector	\$146
<b>PROFESSIONAL SERVICES</b>		
<b>Professional (Engineering, Geology)</b>		
Director/Principal Professional		\$250
Senior Professional		\$215
Project Professional		\$190
Staff Professional		\$160
Drafter Level II		\$120
Drafter Level I		\$110
<b>Project Management</b>		
Senior Project Manager		\$210
Project Manager		\$190
Project Controller		\$95
<b>Field Services (Geotechnical, Special Inspection)</b>		
Field Supervisor		\$190
Off Site Inspector		\$146
Laboratory Technician		\$100
Group 1 (Field Soils, Material Tester)		\$142
Group 2 (Special Inspection)		\$146
Group 3 (NDT Testing)		\$149
Group 4 (Coring)		\$140
NACE Inspector		\$175
<b>Travel, Equipment, and Miscellaneous</b>		
Sample Pick Up		\$100/hour
Vehicle/Truck		\$100/day
Nuclear Gauge		\$50/day
Torque Wrench		\$50/day
Pull Testing		\$75/day
Air Meter		\$50/day
NDT Equipment		\$60/day
Coring Equipment		\$95/day
Travel Time		Hourly Rate
Overtime and Saturday Rate		1.5 x Regular Hourly Rate
Sunday and Nationally Recognized Holiday Rate		2 x Regular Hourly Rate
Rush Surcharge		Normal Rate Plus 50%
Per Diem (variable, depending on location)		Quote
Specialty Equipment Surcharge		Quote

**FEE SCHEDULE**

<b>LABORATORY TESTS</b>	
<b>Soil and Aggregate</b>	
California Bearing Ratio (ASTM D854)	\$515
California Impact (Cal 216)	\$255
Clay Lumps in Aggregate (ASTM C142)	\$185
Cleanness Value (Cal 227)	\$245
Compressive Strength of Rock Core (ASTM D7012)	\$320
Consolidation (ASTM D2435)	\$245
Corrosivity Testing (Soluble Chlorides and Sulfates, pH and Resistivity)	\$230
Crushed Particles (Cal 205, ASTM D5821)	\$185
Direct Shear (ASTM D3080)	\$320
Durability Factor (Cal 229, ASTM D3744)	\$120
Durability Index (Cal 229, ASTM D3744)	\$275
Expansion Index (ASTM D4829)	\$220
Fine Aggregate Angularity (AASHTO T304)	\$245
Fineness Modulus (ASTM C136)	\$35
Flat & Elongated Pieces (ASTM D4791)	\$215
Light Weight Pieces (ASTM C123)	\$125
Liquid Limit (Cal 204, ASTM D4318)	\$95
Los Angeles Abrasion (Cal 211, ASTM C131)	\$275
Maximum Density Check Point (ASTM D698/D1557)	\$110
Maximum Density/Optimum Moisture – 4 inch (ASTM D698, D1557)	\$245
Maximum Density/Optimum Moisture – 6 inch (ASTM D698, D1557)	\$270
Minimum Density (ASTM D1556)	\$95
Moisture Content (Cal 226, ASTM C566, ASTM D2216)	\$45
Natural Density Chunk Sample (ASTM D2937)	\$55
Natural Moisture/Density Ring or Core Sample (ASTM D2937)	\$50
One-Dimensional Swell or Collapse of Soils – per point (ASTM D4546)	\$235
Organic Impurities (Cal 213, ASTM C40)	\$115
Organic Matter (ASTM D2974)	\$95
Percent Finer than #200 (ASTM C117, ASTM D1140)	\$90
Permeability Remold Sample (ASTM D2434)	\$245
Permeability Remold Sample (ASTM D5084)	Quote
Permeability Undisturbed Sample (ASTM D5084)	Quote
Petrographic Analysis (Cal 215, ASTM C295)	Quote
pH & Resistivity (Cal 643, ASTM G51)	\$155
Plasticity Index (Cal 204, ASTM 4318)	\$160
Potential Reactivity (ASTM C289)	\$270
Residual Shear (ASTM D6467)	\$545
Rock Correction (ASTM D4718)	\$35
R-Value (Cal 301, ASTM D2844)	\$340
Sand Castle Test (USACE)	\$240
Sand Equivalent (Cal 217, ASTM D2419)	\$110
Sieve Analysis (ASTM C136, ASTM D6913, Cal 202)	\$135
Sieve Analysis with Hydrometer (Cal 203, ASTM D422)	\$245
Soil Cement Compression Strength (Cal 312, ASTM D1633)	\$65
Soil Cement Cylinder Fabrication (Cal 312, ASTM D1632)	\$125
Soil Cement Mixtures, Wetting and Drying (ASTM D559)	\$1,400
Soluble Chlorides (Cal 422)	\$80
Soluble Sulfate (Cal 417)	\$80
Soundness 5 Cycles (Cal 214, ASTM C88)	\$260
Specific Gravity Coarse Aggregate (Cal 206, ASTM C127)	\$145

## FEE SCHEDULE

### Soil and Aggregate Continued

Specific Gravity Fine Aggregate (Cal 207, ASTM C128)	\$145
Thermal Resistivity of Soils (remolded sample) (IEEE 422)	\$1,285
Triaxial Shear Consolidated – Undrained (ASTM D4767)	Quote
Triaxial Shear Unconsolidated – Undrained (ASTM D2850)	Quote
Triaxial Staged Consolidated – Undrained (ASTM D4767)	Quote
Triaxial Staged Unconsolidated – Undrained (ASTM D2850)	Quote
Unconfined Compression (ASTM D2166)	\$200
Unit Weight Aggregate (Cal 212, ASTM C29)	\$100

### Asphalt Concrete

Asphalt Core Specific Gravity (Cal 308, ASTM D2726)	\$85
Asphalt Core Specific Gravity Waxed (Cal 308, ASTM D1188)	\$105
Emulsion Content (CTM 382)	\$220
Film Stripping (Cal 302)	Quote
Gyratory Compacted Maximum Specific Gravity (AASHTO T312)	\$430
Hamburg Wheel Plant Produced HMA (AASHTO T324/Caltrans Section 39)	\$1,105
Hveem Maximum Bulk Specific Gravity (Cal 308)	\$370
Hveem & Stabilometer Value (Cal 366)	\$490
Ignition Oven Correction Factor (AASHTO T308)	\$310
Ignition Oven Degradation Factor (AASHTO T308)	\$310
Marshall Density Stability & Flow (ASTM D6927)	\$490
Marshall Density (ASTM D6926)	\$370
Moisture Content of Asphalt Mixtures Using Microwave (Cal 370)	\$65
Moisture Vapor Susceptibility (Cal 307)	Quote
Optimum Bitumen Content (AASHTO R35/Cal 367)	\$3,750
Percent Bitumen Asphaltic Concrete (Cal 382, ASTM D6307)	\$220
Residue by Evaporation (Cal 331)	\$220
Rice Maximum Theoretical Specific Gravity AC (Cal 309, ASTM D2041)	\$165
Sieve Analysis Extracted Aggregate (Cal 382, ASTM D5444)	\$115
Stability and Flow (ASTM D1559)	\$430
Stabilometer Value (Cal 366)	\$430
Tensile Strength Ratio Plant Produced HMA (AASHTO T283)	\$1,105
Wet Track Abrasion (ASTM D3910)	\$230

### Concrete

2X2 Cube Compression	\$35
Chloride Ion Testing (ASTM C1218)	\$270
Concrete Core Compression (ASTM C42)	\$75
Concrete Cylinder Compression (Cal 521, ASTM C39)	\$35
Flex Beam Modulus of Rupture (Cal 523, ASTM C78)	\$95
Modulus of Elasticity (Cal 522, ASTM C469)	\$320
Shotcrete Mockup Panel (ASTM C1140)	\$1,275
Shotcrete Panel, 3 Cores Compression (CBC)	\$360
Shrinkage Hardened Concrete (ASTM C157 Modified)	\$455
Split Tensile Concrete Cylinder (ASTM C496)	\$95
Time of Set (ASTM C403)	\$245
Trial Batch Fabrication (ASTM C192)	\$375
Unit Weight Hardened Concrete (ASTM C642)	\$70
Unit Weight Lightweight Concrete (ASTM C567)	\$90

### Masonry

Absorption Block (ASTM C140)	\$145
Compression Adobe	\$195
Compression Block Standard (ASTM C140)	\$185
Compression Brick (ASTM C67)	\$145
Efflorescence Block	\$215



**FEE SCHEDULE****Masonry Continued**

Efflorescence Brick (ASTM C67)	\$215
Grout Prism Compression (ASTM C1019)	\$35
Masonry Core Compression (ASTM C42)	\$65
Masonry Core Shear (CBC 2105A.4)	\$120
Masonry Prism Compression (ASTM E447)	\$185
Modulus of Elasticity (Masonry Prism)	\$310
Mortar Bond Strength Pull Test (ASTM C482)	\$80
Mortar Cylinder Compression	\$35
Mortar Shear Strength (ANSI 118)	\$125
Relative Mortar Strength (Cal 515)	\$1,045
Shrinkage Masonry Block (ASTM C426)	\$310
Trial Grout Prisms (ASTM C942)	\$50
Water Retention and Air Content (ASTM C270)	\$675

**Metal**

Bolt Assembly Hardness Test	\$95
Bolt Assembly Tensile & Proof Load Test	\$155
Chemical Analysis	\$235
Modulus of Elasticity (Steel)	\$320
Post-Tension Tendon Tensile Testing	\$230
Tensile Strength & Bend Test Structural Steel (ASTM A370)	\$235
Tensile Strength & Bend Test Reinforcing Steel (ASTM A615/A706)	\$155
Tensile Strength #14 to #18 Bar (ASTM A615)	Quote
Tensile Strength Mechanical Splices #9 and Smaller (Cal 670)	Quote
Tensile Strength Mechanical Splices #10 to #14 (Cal 670)	Quote
Tensile Strength Mechanical Splices #18 (Cal 670)	Quote

**Miscellaneous**

Fireproofing Density Test (ASTM E605)	\$100
Fiber Reinforced Polymer Tensile (ASTM D3039)	\$705
Material Preparation	\$105
SFRM Adhesion/Cohesion Kit	\$55
Relative Humidity Test (ASTM F2170)	\$100/kit
Concrete Vapor Emission Kits (ASTM F1869)	\$90/kit
Miscellaneous Charges	Various
Default Expense	Various



**MASTER AGREEMENT FOR AS-NEEDED MATERIALS TESTING SERVICES  
NINYO & MOORE GEOTECHNICAL & ENVIRONMENTAL SCIENCES CONSULTANTS**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2025, but effective August 18, 2025, by and between the City of Carlsbad, California, a municipal corporation ("City"), and Ninyo & Moore Geotechnical & Environmental Sciences Consultants, a California corporation ("Contractor").

**RECITALS**

- A. City requires the professional services of a consultant that is experienced in materials testing.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to as-needed materials testing.
- D. Contractor has submitted a proposal to the city responsive to Request for Qualifications RFQ25-3671CMI and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, City and Contractor agree as follows:

**1. SCOPE OF WORK**

City retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A," which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area, and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective from the date first above written to Aug. 17, 2028. The City Manager may amend the Agreement to extend it for two (2) additional one (1) year periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, City needs, and appropriation of funds by the City Council. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by City and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the City Manager or the Division Director

("Director") as authorized by the City Manager. The City Manager or Director will give allowance for documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight on the part of Contractor, or delays caused by City inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed six hundred thousand dollars (\$600,000) per Agreement year. If the City extends the Agreement pursuant to Section 3, the costs of services may increase by a maximum of 2% per Agreement year, if agreed to by both parties. Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A." Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, City shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for City, the City Manager or Director, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize City's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. Contractor is required to create a free web-based Procore user account(s) and utilize web-based training/tutorials (as needed) to become familiar with the system. Unless the City

Engineer approves otherwise, Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on projects. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. Contractor is responsible for attaining Contractor's own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to Contractor for use of Procore.

It is recommended that Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, requests for information, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

#### **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of City. Contractor will be under the control of City only as to the result to be accomplished, but will consult with City as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of City for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. City will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. City will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify City within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which City may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At the City's election, City may deduct the indemnification amount from any balance owing to Contractor.

#### **9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

#### **10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of City. If Contractor subcontracts any of the Services, Contractor will be fully responsible to City for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and City. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement

applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by City.

#### **11. OTHER CONTRACTORS**

The City reserves the right to employ other Contractors in connection with the Services.

#### **12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by the City), indemnify, and hold harmless the City and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation program is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

#### **13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current Best's Key Rating of not less than "A-:VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

**13.1 Coverages and Limits.** Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability (CGL) Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to City's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 The City will be named as an additional insured on Commercial General Liability which shall provide primary coverage to the City.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to City sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to City's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to City.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then City will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by City to obtain or maintain insurance and City may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. City reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

14. **BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

15. **ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

16. **OWNERSHIP OF DOCUMENTS**

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of City. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to City. Contractor will have the right to make one (1) copy of the work product for Contractor’s records.

17. **COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in City and Contractor relinquishes all claims to the copyrights in favor of City.

18. **NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of City and on behalf of Contractor under this Agreement are:

<u>For City:</u>		<u>For Contractor:</u>	
Name	Jennifer Chapman	Name	Jeffrey T. Kent
Title	Senior Contract Administrator	Title	Principal Engineer
Dept	Public Works/CM&I	Address	5710 Ruffin Road
	CITY OF CARLSBAD		San Diego, CA 92123
Address	1635 Faraday Ave.	Phone	858-576-1000
	Carlsbad, CA 92008	Email	<a href="mailto:jkent@ninyoandmoore.com">jkent@ninyoandmoore.com</a>
Phone	442-339-2780		

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

19. **GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor’s services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services, the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or City will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, City may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If City decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, City may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by City and all work in progress to City at the address contained in this Agreement. City will make a determination of fact based upon the work product delivered to City and of the percentage of work that Contractor has performed which is usable and of worth to City in having the Agreement completed. Based upon that finding City will determine the final payment of the Agreement.

City may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to City. In the event of termination of this Agreement by either party and upon request of City, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to City. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. City will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award

or making of this Agreement. For breach or violation of this warranty, City will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any Agreement claim submitted to City must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to City, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act, applies to this Agreement and provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If City seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorneys fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon City and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of City, which shall not be unreasonably withheld.

**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the City and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract, and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely



responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

### 31. **AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

CONTRACTOR  
NINYO & MOORE GEOTECHNICAL &  
ENVIRONMENTAL SCIENCES CONSULTANTS, a  
California corporation

By:

*Avram Ninyo*

(sign here)

Avram Ninyo, President  
(print name/title)

By:

*Elaine P. Autus*

(sign here)

Elaine Autus, Secretary  
(print name/title)

CITY OF CARLSBAD, a municipal corporation of  
the State of California

By:

KEITH BLACKBURN, Mayor

ATTEST:

SHERRY FREISINGER, City Clerk

By:

Director of Constituent & Clerk Services

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

Group A  
Chairman,  
President, **or**  
Vice-President

Group B  
Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, City Attorney

BY: *Cindie K. McMahon*

**EXHIBIT A****SCOPE OF SERVICES AND FEES**

Contractor shall perform as-needed materials testing services in accordance with the City's Request for Qualifications (RFQ25-3671CMI) dated March 5, 2025.

The City will normally schedule work on a prior day basis. The firm's technical shall be onsite within fifteen (15) minutes of the scheduled time and is expected to be prepared to perform the requested tests and tasks. Costs incurred by the City due to time delays created by the materials testing firm shall be at the expense of said firm. The City will make every effort to coordinate work to allow use of a single technician, but is under no obligation to do so. The City may schedule or reschedule work on a same day basis if a technician is available. The City will not be held liable for any test cancellation that occurred at least two (2) hours prior to the scheduled time. The City will only pay for time spent on site; no charges for mileage or travel time. Rates should be inclusive of vehicle usage and administrative time, which includes coordination, scheduling, billing, etc. The cost of each test performed will also be an inclusive rate that includes vehicle usage, the test, the tools needed to perform the test, the report, pickup and drop off. Time will be billed in 2-hour increments with a 2-hour minimum.

Invoices for services are expected to be reviewed for accuracy before being submitted to the City.

Compaction test reports will be made available in the field at the time of testing where sampling for maximum densities was made available two (2) days prior to testing of soils and aggregates, and the same day for asphalt concrete. When proctors for maximum densities are not available on the day of testing, compaction test results shall be available no later than the next day. Contractor will prepare and submit a formal report as soon as that segment of work is completed or when otherwise requested by the City.

**NINYO & MOORE RATE SCHEDULE**

Prices valid through initial Term of Agreement

<b><u>STAFF</u></b>		
	<b><u>TITLE</u></b>	<b><u>HOURLY RATE</u></b>
	<b>PROFESSIONAL STAFF</b>	
1	Principal Engineer/Geologist/Environmental Scientist/Certified Industrial Hygienist	\$195
2	Senior Engineer/Geologist/Environmental Scientist	\$190
3	Senior Project Engineer/Geologist/Environmental Scientist	\$185
4	Project Engineer/Geologist/Environmental Scientist	\$175
5	Senior Staff Engineer/Geologist/Environmental Scientist	\$150
6	Staff Engineer/Geologist/Environmental Scientist	\$145
7	GIS Analyst	\$125
8	Technical Illustrator/CAD Operator	\$103
	<b>FIELD STAFF</b>	
9	Certified Asbestos/Lead Technician	\$185
10	Field Operations Manager	\$125
11	Nondestructive Examination Technician (UT, MT, LP)	\$145
12	Supervisory Technician	\$140
13	Special Inspector (Concrete, Masonry, Structural Steel, Welding, and Fireproofing)	\$140
14	Senior Technician	\$140
15	Technician	\$135
	<b>ADMINISTRATIVE STAFF</b>	
16	Information Specialist	\$85
17	Geotechnical/Environmental/Laboratory Assistant	\$80
18	Data Processor	\$75

**PUBLIC WORKS – REQUEST FOR QUALIFICATIONS RFQ25-3671CMI**

2025 Master Agreement Consultant Services  
for Construction Management & Inspection Services

June 24, 2025

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NINOYO & MOORE RATE SCHEDULE

Prices valid through initial Term of Agreement

<u>STAFF</u>		
	<u>TITLE</u>	<u>HOURLY RATE</u>
	<b>OTHER CHARGES</b>	
	Concrete Coring Equipment (includes technician)	\$230/hr
	Anchor Load Test Equipment (includes technician)	\$230/hr
	GPR Equipment	\$200/hr
	Inclinometer	\$110/hr
	Hand Auger Equipment	\$85/hr
	Rebar Locator (Pachometer)	\$25/hr
	Vapor Emission Kit	\$70/kit
	Nuclear Density Gauge	\$12/hr
	X-Ray Fluorescence	\$75/hr
	PID/FID	\$30/hr
	Air Sampling Pump	\$15/hr
	Field Vehicle	\$15/hr
	Expert Witness Testimony	\$450/hr
	Direct Expenses	Cost plus 15%
	Special equipment charges will be provided upon request.	

## Schedule of Fees for Laboratory Testing

### SOILS

Atterberg Limits, D 4318, CT 204	\$ 170
California Bearing Ratio (CBR), D 1883	\$ 550
Chloride and Sulfate Content, CT 417 & CT 422	\$ 175
Consolidation, D 2435, CT 219	\$ 300
Consolidation, Hydro-Collapse only, D 2435	\$ 150
Consolidation – Time Rate, D 2435, CT 219	\$ 200
Direct Shear – Remolded, D 3080	\$ 350
Direct Shear – Undisturbed, D 3080	\$ 300
Durability Index, CT 229	\$ 175
Expansion Index, D 4829, IBC 18-3	\$ 190
Expansion Potential (Method A), D 4546	\$ 170
Geofabric Tensile and Elongation Test, D 4632	\$ 200
Hydraulic Conductivity, D 5084	\$ 350
Hydrometer Analysis, D 6913, CT 203	\$ 220
Moisture, Ash, & Organic Matter of Peat/Organic Soils	\$ 120
Moisture Only, D 2216, CT 226	\$ 35
Moisture and Density, D 2937	\$ 45
Permeability, CH, D 2434, CT 220	\$ 300
pH and Resistivity, CT 643	\$ 175
Proctor Density D1557, D 698, CT 216, AASHTO T-180	\$ 220
Proctor Density with Rock Correction D 1557	\$ 340
R-value, D 2844, CT 301	\$ 375
Sand Equivalent, D 2419, CT 217	\$ 125
Sieve Analysis, D 6913, CT 202	\$ 145
Sieve Analysis, 200 Wash, D 1140, CT 202	\$ 100
Specific Gravity, D 854	\$ 125
Thermal Resistivity (ASTM 5334, IEEE 442)	\$ 925
Triaxial Shear, C.D., D 4767, T 297	\$ 550
Triaxial Shear, C.U., w/pore pressure, D 4767, T 2297 per pt	\$ 450
Triaxial Shear, C.U., w/o pore pressure, D 4767, T 2297 per pt	\$ 350
Triaxial Shear, U.U., D 2850	\$ 250
Unconfined Compression, D 2166, T 208	\$ 180

### MASONRY

Brick Absorption, 24-hour submersion, 5-hr boiling, 7-day, C 67	\$ 70
Brick Compression Test, C 67	\$ 55
Brick Efflorescence, C 67	\$ 55
Brick Modulus of Rupture, C 67	\$ 50
Brick Moisture as received, C 67	\$ 45
Brick Saturation Coefficient, C 67	\$ 60
Concrete Block Compression Test, 8x8x16, C 140	\$ 70
Concrete Block Conformance Package, C 90	\$ 500
Concrete Block Linear Shrinkage, C 426	\$ 200
Concrete Block Unit Weight and Absorption, C 140	\$ 70
Cores, Compression or Shear Bond, CA Code	\$ 70
Masonry Grout, 3x3x6 prism compression, C 39	\$ 45
Masonry Mortar, 2x2 cube compression, C 109	\$ 35
Masonry Prism, half size, compression, C 1019	\$ 120
Masonry Prism, Full size, compression, C 1019	\$ 200

### REINFORCING AND STRUCTURAL STEEL

Chemical Analysis, A 36, A 615	\$ 135
Fireproofing Density Test, UBC 7-6	\$ 90
Hardness Test, Rockwell, A 370	\$ 80
High Strength Bolt, Nut & Washer Conformance, per assembly, A 325	\$ 150
Mechanically Spliced Reinforcing Tensile Test, ACI	\$ 175
Pre-Stress Strand (7 wire), A 416	\$ 170
Reinforcing Tensile or Bend up to No. 11, A 615 & A 706	\$ 75
Structural Steel Tensile Test: Up to 200,000 lbs., A 370	\$ 90
Welded Reinforcing Tensile Test: Up to No. 11 bars, ACI	\$ 80

### CONCRETE

Compression Tests, 6x12 Cylinder, C 39	\$ 35
Concrete Mix Design Review, Job Spec	\$ 300
Concrete Mix Design, per Trial Batch, 6 cylinder, ACI	\$ 850
Concrete Cores, Compression (excludes sampling), C 42	\$ 120
Drying Shrinkage, C 157	\$ 400
Flexural Test, C 78	\$ 85
Flexural Test, C 293	\$ 85
Flexural Test, CT 523	\$ 95
Gunite/Shotcrete, Panels, 3 cut cores per panel and test, ACI	\$ 275
Lightweight Concrete Fill, Compression, C 495	\$ 80
Petrographic Analysis, C 856	\$ 2,000
Restrained Expansion of Shrinkage Compensation	\$ 450
Splitting Tensile Strength, C 496	\$ 100
3x6 Grout, (CLSM), C 39	\$ 55
2x2x2 Non-Shrink Grout, C 109	\$ 55

### ASPHALT

Air Voids, T 269	\$ 85
Asphalt Mix Design, Caltrans (incl. Aggregate Quality)	\$ 4,500
Asphalt Mix Design Review, Job Spec	\$ 180
Dust Proportioning, CT LP-4	\$ 85
Extraction, % Asphalt, including Gradation, D 2172, CT 382	\$ 250
Extraction, % Asphalt without Gradation, D 2172, CT 382	\$ 150
Film Stripping, CT 302	\$ 120
Hveem Stability and Unit Weight D 1560, T 246, CT 366	\$ 225
Marshall Stability, Flow and Unit Weight, T 245	\$ 240
Maximum Theoretical Unit Weight, D 2041, CT 309	\$ 150
Moisture Content, CT 370	\$ 95
Moisture Susceptibility and Tensile Stress Ratio, T 238, CT 371	\$ 1,000
Slurry Wet Track Abrasion, D 3910	\$ 150
Superpave, Asphalt Mix Verification (incl. Aggregate Quality)	\$ 4,900
Superpave, Gyration Unit Wt., T 312	\$ 100
Superpave, Hamburg Wheel, 20,000 passes, T 324	\$ 1,000
Unit Weight sample or core, D 2726, CT 308	\$ 100
Voids in Mineral Aggregate, (VMA) CT LP-2	\$ 90
Voids filled with Asphalt, (VFA) CT LP-3	\$ 90
Wax Density, D 1188	\$ 140

### AGGREGATES

Clay Lumps and Friable Particles, C 142	\$ 180
Cleanliness Value, CT 227	\$ 180
Crushed Particles, CT 205	\$ 175
Durability, Coarse or Fine, CT 229	\$ 205
Fine Aggregate Angularity, ASTM C 1252, T 304, CT 234	\$ 180
Flat and Elongated Particle, D 4791	\$ 220
Lightweight Particles, C 123	\$ 180
Los Angeles Abrasion, C 131 or C 535	\$ 200
Material Finer than No. 200 Sieve by Washing, C 117	\$ 90
Organic Impurities, C 40	\$ 90
Potential Alkali Reactivity, Mortar Bar Method, Coarse, C 1260	\$ 1,250
Potential Alkali Reactivity, Mortar Bar Method, Fine, C 1260	\$ 950
Potential Reactivity of Aggregate (Chemical Method), C 289	\$ 475
Sand Equivalent, T 176, CT 217	\$ 125
Sieve Analysis, Coarse Aggregate, T 27, C 136	\$ 120
Sieve Analysis, Fine Aggregate (including wash), T 27, C 136	\$ 145
Sodium Sulfate Soundness, C 88	\$ 450
Specific Gravity and Absorption, Coarse, C 127, CT 206	\$ 115
Specific Gravity and Absorption, Fine, C 128, CT 207	\$ 175

### ROOFING

Roofing Tile Absorption, (set of 5), C 67	\$ 250
Roofing Tile Strength Test, (set of 5), C 67	\$ 250

Special preparation of standard test specimens will be charged at the technician's hourly rate.  
Ninyo & Moore is accredited to perform the AASHTO equivalent of many ASTM test procedures.

**MASTER AGREEMENT FOR AS-NEEDED MATERIALS TESTING SERVICES  
NV5, INC.**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2025, but effective August 18, 2025, by and between the City of Carlsbad, California, a municipal corporation ("City"), and NV5, Inc., a California corporation ("Contractor").

**RECITALS**

- A. City requires the professional services of a consultant that is experienced in materials testing.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to as-needed materials testing.
- D. Contractor has submitted a proposal to the city responsive to Request for Qualifications RFQ25-3671CMI and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, City and Contractor agree as follows:

**1. SCOPE OF WORK**

City retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A," which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area, and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective from the date first above written to Aug. 17, 2028. The City Manager may amend the Agreement to extend it for two (2) additional one (1) year periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, City needs, and appropriation of funds by the City Council. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by City and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the City Manager or the Division Director ("Director") as authorized by the City Manager. The City Manager or Director will give allowance for

documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight on the part of Contractor, or delays caused by City inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed six hundred thousand dollars (\$600,000) per Agreement year. If the City extends the Agreement pursuant to Section 3, the costs of services may increase by a maximum of 2% per Agreement year, if agreed to by both parties. Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A." Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, City shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for City, the City Manager or Director, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize City's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. Contractor is required to create a free web-based Procore user account(s) and utilize web-based training/tutorials (as needed) to become familiar with the system. Unless the City Engineer approves otherwise, Contractor shall process all project documents through Procore because

this platform will be used to submit, track, distribute and collaborate on projects. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. Contractor is responsible for attaining Contractor's own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to Contractor for use of Procore.

It is recommended that Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, requests for information, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

#### **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of City. Contractor will be under the control of City only as to the result to be accomplished, but will consult with City as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of City for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. City will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. City will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify City within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which City may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At the City's election, City may deduct the indemnification amount from any balance owing to Contractor.

#### **9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

#### **10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of City. If Contractor subcontracts any of the Services, Contractor will be fully responsible to City for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and City. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement



applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by City.

#### **11. OTHER CONTRACTORS**

The City reserves the right to employ other Contractors in connection with the Services.

#### **12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by the City), indemnify, and hold harmless the City and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation program is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

#### **13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current Best's Key Rating of not less than "A-:VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

**13.1 Coverages and Limits.** Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability (CGL) Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to City's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 The City will be named as an additional insured on Commercial General Liability which shall provide primary coverage to the City.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to City sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to City's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to City.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then City will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by City to obtain or maintain insurance and City may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. City reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

**14. BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

**15. ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

**16. OWNERSHIP OF DOCUMENTS**

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of City. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to City. Contractor will have the right to make one (1) copy of the work product for Contractor's records.

**17. COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in City and Contractor relinquishes all claims to the copyrights in favor of City.

**18. NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of City and on behalf of Contractor under this Agreement are:

For City:

Name	Jennifer Chapman
Title	Senior Contract Administrator
Dept	Public Works/CM&I
	CITY OF CARLSBAD
Address	1635 Faraday Ave.
	Carlsbad, CA 92008
Phone	442-339-2780

For Contractor:

Name	Shafiq Popalzai
Title	Vice President
Address	15092 Avenue of Science, Ste. 200
	San Diego, CA 92128
Phone	858-385-0500
Email	Shafiq.popalzai@nv5.com

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

**19. GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services, the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or City will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, City may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If City decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, City may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by City and all work in progress to City at the address contained in this Agreement. City will make a determination of fact based upon the work product delivered to City and of the percentage of work that Contractor has performed which is usable and of worth to City in having the Agreement completed. Based upon that finding City will determine the final payment of the Agreement.

City may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to City. In the event of termination of this Agreement by either party and upon request of City, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to City. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. City will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award

or making of this Agreement. For breach or violation of this warranty, City will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any Agreement claim submitted to City must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to City, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act, applies to this Agreement and provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If City seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorneys fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon City and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of City, which shall not be unreasonably withheld.

**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the City and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract, and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely

responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

### 31. **AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

CONTRACTOR  
NV5, INC., a California corporation

By:

Shafiq Popalzai

(sign here)

Shafiq Popalzai, Vice President of  
Conformity Assessment Solutions

(print name/title)

By:

(sign here)

(print name/title)

CITY OF CARLSBAD, a municipal corporation of  
the State of California

By:

KEITH BLACKBURN, Mayor

ATTEST:

SHERRY FREISINGER, City Clerk

By:

Director of Constituent & Clerk Services

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

Group A  
Chairman,  
President, **or**  
Vice-President

Group B  
Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, City Attorney

BY: Cindie K. McMahon

**EXHIBIT A****SCOPE OF SERVICES AND FEES**

Contractor shall perform as-needed materials testing services in accordance with the City's Request for Qualifications (RFQ25-3671CMI) dated March 5, 2025.

The City will normally schedule work on a prior day basis. The firm's technical shall be onsite within fifteen (15) minutes of the scheduled time and is expected to be prepared to perform the requested tests and tasks. Costs incurred by the City due to time delays created by the materials testing firm shall be at the expense of said firm. The City will make every effort to coordinate work to allow use of a single technician, but is under no obligation to do so. The City may schedule or reschedule work on a same day basis if a technician is available. The City will not be held liable for any test cancellation that occurred at least two (2) hours prior to the scheduled time. The City will only pay for time spent on site; no charges for mileage or travel time. Rates should be inclusive of vehicle usage and administrative time, which includes coordination, scheduling, billing, etc. The cost of each test performed will also be an inclusive rate that includes vehicle usage, the test, the tools needed to perform the test, the report, pickup and drop off. Time will be billed in 2-hour increments with a 2-hour minimum.

Invoices for services are expected to be reviewed for accuracy before being submitted to the City.

Compaction test reports will be made available in the field at the time of testing where sampling for maximum densities was made available two (2) days prior to testing of soils and aggregates, and the same day for asphalt concrete. When proctors for maximum densities are not available on the day of testing, compaction test results shall be available no later than the next day. Contractor will prepare and submit a formal report as soon as that segment of work is completed or when otherwise requested by the City.

# FEE SCHEDULE

<b>PROFESSIONAL STAFF</b>			
<b>Personnel</b>			
Senior Principal Engineer / Geologist			\$245.00/hr.
Principal Engineer / Geologist			\$225.00/hr.
Associate Engineer / Geologist			\$205.00/hr.
Senior Engineer / Geologist			\$185.00/hr.
Project Engineer / Geologist			\$155.00/hr.
Senior Staff Engineer / Geologist			\$135.00/hr.
Staff Engineer / Geologist			\$120.00/hr.
Senior Project Manager			\$170.00/hr.
Project Manager			\$150.00/hr.
Field Supervisor			\$150.00/hr.
Administration Staff			\$75.00/hr.
<b>FIELD STAFF</b>			
		Prevailing Wage	
Soil / ACI Technician I		\$145.00	/hr.
- Vehicle Charge		Inc.	/day
- Equipment Charge		Inc.	/hour
ICC Special Inspector I (Concrete, Masonry, Steel, Bolt, Fireproofing)		\$145.00	/hr.
Certified Welding Inspector I		\$175.00	/hr.
NDT Technician		\$170.00	/hr.
Laboratory Technician		\$80.00	/hr.
Ground Penetrating Radar (Technician and Equipment)		\$198.00	/hr.
Coring Equipment Fee		\$70.00	/hr.
Torque/Pull Testing (Technician and Equipment)		\$130.00	/hr.
"Wildcat", 35-lb hammer Dynamic Cone Penetrometer (DCP) with tech		\$400.00	/hr.
Lightweight 5-lb Gas Dynamic Cone Penetrometer (DCP) equip with tech		\$180.00	/hr.
Seismic Refraction Survey Using Geode 24-Channel Seismodule		\$3,150.00	
Fall of Potential Ground Testing (Ground Rod Test) - Initial Test		\$975.00	
Fall of Potential Ground Testing (Ground Rod Test) - Subsequent Test		\$585.00	
Pick-Up		Inc.	/hr.
<b>LABORATORY FEE SCHEDULE</b>			
<b>Asphalt Concrete</b>			
Asphalt Mix Design Review			\$375.00/ea.
Hveem Stability			\$215.00/ea.
Hveem Unit Weight Sample Requiring Compaction			\$200.00/ea.
Marshall Stability, Flow & Unit Weight		210.00/ea. (per test specimen)	
Maximum Theoretical Unit Weight (Rice)			\$210.00/ea.
Extraction - Ignition Oven (including gradation)			\$245.00/ea.
Percent Swell			\$160.00/ea.
Unit Wt Compacted Sample (Specific Gravity)			\$95.00/ea.
<b>Aggregates</b>			
Absorption Test, Coarse Aggregate			\$54.00/ea.



# FEE SCHEDULE

LABORATORY FEE SCHEDULE (CONTINUED)	
Absorption Test, Fine Aggregate	\$54.00/ea.
Clay Lumps & Friable Particles	\$135.00/ea.
Cleanness Value	\$160.00/ea.
Crushed Particles, Percent	\$205.00/ea.
Durability Index, Coarse Aggregate	\$130.00/ea.
Durability Index, Fine Aggregate	\$130.00/ea.
Abrasion Resistance by LA Rattler	\$205.00/ea.
Organic Impurities in Sand	\$80.00/ea.
Sieve Analysis Coarse Aggregate	\$100.00/ea.
Sieve Analysis Coarse & Fine Aggregate (includes Wash)	\$140.00/ea.
Sodium Sulfate Soundness (5 cycle test per primary size)	\$390.00/ea.
Specific Gravity, Fine Aggregate	\$95.00/ea.
Specific Gravity, Coarse Aggregate	\$85.00/ea.
Unit Weight (per cubic foot) Voids in Aggregate	\$75.00/ea.
Rock Core (Compressive Strength)	\$95.00/ea.
<b><i>Structural/Reinforcing Steel</i></b>	
Headed Rebar Tensile Test - No. 8 Bar and Smaller <	\$115.00/ea.
Headed Rebar Tensile Test - No. 9 Bar to No. 11	\$140.00/ea.
H. S. Bolt Conformance— Bolt, Nut & Washer (DSA)	\$480.00/ea.
Mechanically Spliced Reinforcing Steel - No. 8 Bar and Smaller <	\$200.00/ea.
Mechanically Spliced Reinforcing Steel - No. 9 Bar to No. 11	\$215.00/ea.
Mechanically Spliced Reinforcing Steel - No. 14	\$235.00/ea.
Mechanically Spliced Reinforcing Steel - Slippage	\$42.00/ea.
Mechanical Tests, Hardness Test, Rockwell	\$118.00/ea.
Prestressed Steel, Tensile Test, Strand (7-wire Coated)	\$235.00/ea.
Prestressed Steel, Tensile Test, Strand (7-wire Uncoated)	\$275.00/ea.
Reinforcing Steel, Tensile Test – No. 8 Bar and Smaller <	\$95.00/ea.
Reinforcing Steel, Tensile Test – No. 9 Bar to No. 11	\$108.00/ea.
Reinforcing Steel, Tensile Test – No. 11 Bar and Greater >	Quote
Reinforcing Steel, Bend Test	\$75.00/ea.
Spray-applied Fireproofing Density Tests	\$110.00/ea.
Structural Steel, Tensile – Up to 200,000 lbs.	\$160.00/ea.
Structural Steel, Bend Test	\$105.00/ea.
Welded Specimens, Tensile Test	\$135.00/ea.
Chemical Analysis	Quote
Machining Costs If Required	\$80.00/hr.
<b><i>Masonry</i></b>	
Absorption Test, Brick	\$65.00/ea.
Compression Test, Composite Prism	\$185.00/ea.
Compression Test, Brick	\$55.00/ea.
Compression Test, Blocks	\$95.00/ea.
Compression Test, Cores (does not include Coring for samples)	\$80.00/ea.
Compression Test, Grout / Mortar	\$37.00/ea.
Masonry Block Conformance (Does not include shrinkage)	\$480.00/ea.

# FEE SCHEDULE

<b>LABORATORY FEE SCHEDULE (CONTINUED)</b>	
Modulus of Rupture, Brick	\$55.00/ea.
Moisture as Received, Brick	\$55.00/ea.
Saturation Coefficient Brick	\$55.00/ea.
Unit Weight & Absorption, Block	\$80.00/ea.
Efflorescence, Block or Brick Only	\$80.00/ea.
Linear Shrinkage	\$270.00/ea.
Masonry Core Shear Test	\$130.00/ea.
<b>Soils</b>	
Soil Processing Fee (per sample)	\$22.00/ea.
Chloride Content of Soil	\$85.00/ea.
Consolidation (up to 9 loads)	\$295.00/ea.
Direct Shear (undisturbed ring specimens)	\$270.00/ea.
Direct Shear (remolded specimens)	\$315.00/ea.
Expansion Index	\$170.00/ea.
Proctor (per curve) - 4-inch mold	\$210.00/ea.
Proctor (per curve) - 6-inch mold	\$275.00/ea.
Rock Correction (if required)	\$75.00/ea.
Moisture Content / Dry Density	\$42.00/ea.
Organic Matter	\$80.00/ea.
Plasticity Index/Liquid Limit (Atterberg Limit)	\$160.00/ea.
R-value (minimum 3 points)	\$340.00/ea.
Resistivity & pH of Soil	\$180.00/ea.
Sand Equivalent	\$100.00/ea.
Sieve Analysis	\$135.00/ea.
Sieve Analysis, with Hydrometer	\$270.00/ea.
No. 200 Mesh Wash Particle Size Gradation	\$95.00/ea.
Sulfate Content of Soil	\$85.00/ea.
Thermal Resistivity of Soil (including 1 proctor curve)	\$1300.00/ea.
<b>Concrete</b>	
Compression Test, 4x8 Cylinder	\$32.00/ea.
Compression Test, 6x12 Cylinder	\$34.00/ea.
Compression Test Gunite / Shotcrete (3 Cores/Panel, Coring Included)	\$420.00/ea.
Compression Test, Core (incl sample prep)	\$80.00/ea.
Compression Test, Lightweight Concrete Fill	\$53.00/ea.
Compression Test, Non-shrink Grout Cubes	\$53.00/ea.
Concrete Flexural Test	\$95.00/ea.
Concrete Mix Design (revision or review)	\$375.00/ea.
Drying Shrinkage (3 specimens – 28 days)	\$375.00/ea.
Modulus of Elasticity, Static	\$270.00/ea.
Splitting Tensile Strength	\$105.00/ea.
Thermal Resistivity Testing of Concrete / FTB	\$485.00/ea.
Unit Weight, Lightweight Concrete Fill	\$80.00/ea.

**MASTER AGREEMENT FOR AS-NEEDED MATERIALS TESTING SERVICES  
VERDANTAS INC.**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2025, but effective August 18, 2025, by and between the City of Carlsbad, California, a municipal corporation ("City"), and Verdantas Inc., a California corporation. ("Contractor").

**RECITALS**

- A. City requires the professional services of a consultant that is experienced in materials testing.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to as-needed materials testing.
- D. Contractor has submitted a proposal to the city responsive to Request for Qualifications RFQ25-3671CMI and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, City and Contractor agree as follows:

**1. SCOPE OF WORK**

City retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A," which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area, and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective from the date first above written to Aug. 17, 2028. The City Manager may amend the Agreement to extend it for two (2) additional one (1) year periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, City needs, and appropriation of funds by the City Council. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by City and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the City Manager or the Division Director ("Director") as authorized by the City Manager. The City Manager or Director will give allowance for

documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight on the part of Contractor, or delays caused by City inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

#### **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed six hundred thousand dollars (\$600,000) per Agreement year. If the City extends the Agreement pursuant to Section 3, the costs of services may increase by a maximum of 2% per Agreement year, if agreed to by both parties. Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A." Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, City shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for City, the City Manager or Director, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

#### **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

#### **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize City's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. Contractor is required to create a free web-based Procore user account(s) and utilize web-based training/tutorials (as needed) to become familiar with the system. Unless the City

Engineer approves otherwise, Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on projects. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. Contractor is responsible for attaining Contractor's own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to Contractor for use of Procore.

It is recommended that Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, requests for information, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

#### **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of City. Contractor will be under the control of City only as to the result to be accomplished, but will consult with City as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of City for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. City will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. City will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify City within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which City may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At the City's election, City may deduct the indemnification amount from any balance owing to Contractor.

#### **9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

#### **10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of City. If Contractor subcontracts any of the Services, Contractor will be fully responsible to City for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and City. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement

applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by City.

#### **11. OTHER CONTRACTORS**

The City reserves the right to employ other Contractors in connection with the Services.

#### **12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by the City), indemnify, and hold harmless the City and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation program is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

#### **13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current Best's Key Rating of not less than "A-:VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

**13.1 Coverages and Limits.** Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability (CGL) Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to City's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 The City will be named as an additional insured on Commercial General Liability which shall provide primary coverage to the City.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to City sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to City's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to City.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then City will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by City to obtain or maintain insurance and City may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. City reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

**14. BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

**15. ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

**16. OWNERSHIP OF DOCUMENTS**

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of City. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to City. Contractor will have the right to make one (1) copy of the work product for Contractor's records.

**17. COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in City and Contractor relinquishes all claims to the copyrights in favor of City.

**18. NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of City and on behalf of Contractor under this Agreement are:

For City:

Name	Jennifer Chapman
Title	Senior Contract Administrator
Dept	Public Works/CM&I
	CITY OF CARLSBAD
Address	1635 Faraday Ave.
	Carlsbad, CA 92008
Phone	442-339-2780

For Contractor:

Name	Kristen D. Williams
Title	Area Leader/Vice President
Address	3934 Murphy Canyon Rd., Ste. B-205
	San Diego, CA 92123
Phone	858-292-8030
Email	kwilliams@verdantas.com

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

**19. GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.



Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services, the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or City will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, City may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If City decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, City may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by City and all work in progress to City at the address contained in this Agreement. City will make a determination of fact based upon the work product delivered to City and of the percentage of work that Contractor has performed which is usable and of worth to City in having the Agreement completed. Based upon that finding City will determine the final payment of the Agreement.

City may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to City. In the event of termination of this Agreement by either party and upon request of City, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to City. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. City will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award

or making of this Agreement. For breach or violation of this warranty, City will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any Agreement claim submitted to City must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to City, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act, applies to this Agreement and provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If City seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorneys fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon City and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of City, which shall not be unreasonably withheld.

**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the City and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract, and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely

responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

### 31. **AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

CONTRACTOR  
VERDANTAS INC., a California corporation

By:

Kristen D. Williams

(sign here)

Kristen D. Williams, Vice President

(print name/title)

By:

Pat Sheridan

(sign here)

Pat Sheridan, CFO

(print name/title)

CITY OF CARLSBAD, a municipal corporation of  
the State of California

By:

KEITH BLACKBURN, Mayor

ATTEST:

SHERRY FREISINGER, City Clerk

By:

Director of Constituent & Clerk Services

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

Group A

Chairman,  
President, **or**  
Vice-President

Group B

Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, City Attorney

BY:

Cindie K. McMahon

**EXHIBIT A****SCOPE OF SERVICES AND FEES**

Contractor shall perform as-needed materials testing services in accordance with the City's Request for Qualifications (RFQ25-3671CMI) dated March 5, 2025.

The City will normally schedule work on a prior day basis. The firm's technical shall be onsite within fifteen (15) minutes of the scheduled time and is expected to be prepared to perform the requested tests and tasks. Costs incurred by the City due to time delays created by the materials testing firm shall be at the expense of said firm. The City will make every effort to coordinate work to allow use of a single technician, but is under no obligation to do so. The City may schedule or reschedule work on a same day basis if a technician is available. The City will not be held liable for any test cancellation that occurred at least two (2) hours prior to the scheduled time. The City will only pay for time spent on site; no charges for mileage or travel time. Rates should be inclusive of vehicle usage and administrative time, which includes coordination, scheduling, billing, etc. The cost of each test performed will also be an inclusive rate that includes vehicle usage, the test, the tools needed to perform the test, the report, pickup and drop off. Time will be billed in 2-hour increments with a 2-hour minimum.

Invoices for services are expected to be reviewed for accuracy before being submitted to the City.

Compaction test reports will be made available in the field at the time of testing where sampling for maximum densities was made available two (2) days prior to testing of soils and aggregates, and the same day for asphalt concrete. When proctors for maximum densities are not available on the day of testing, compaction test results shall be available no later than the next day. Contractor will prepare and submit a formal report as soon as that segment of work is completed or when otherwise requested by the City.

**SAMPLE MASTER AGREEMENT RATE SCHEDULE Prices**

valid through initial Term of Agreement

<b><u>STAFF</u></b>			
	<b><u>NAME</u></b>	<b><u>TITLE</u></b>	<b><u>HOURLY RATE</u></b>
1.	Robert Stroh, PG, CEG	Project Manager	\$265.00
2.	Nicholas Tracy, PE, GE	Quality Reviewer	\$235.00
3.	Steve Norton, PE, PG	Project Engineer	\$190.00
4.	Roy Butz, PG, CEG	Associate Geologist	\$235.00
5.	Todd Schmitz, PG, CEG	Senior Project Engineer	\$215.00
6.	Roderick Marcia, PE	Principal Materials Engineer	\$265.00
7.	Matthew Vinet	Lab Manager	\$185.00
8.	Siegert (Lynn) Reid	Field Supervisor	\$150.00
9.	Aston James	Field Materials Tester	\$115.00
10.	Michael Colburn	Field Materials Tester	\$115.00
11.	Neil Carey	Field Materials Tester	\$115.00
12.	Louis Parrella	Lab Technician	\$115.00
13.	Edwin Panopio	Field Materials Tester	\$115.00
14.	Stacy Weimer	Senior Special Inspector	\$115.00

<b><u>EXPENSES</u></b>			
	<b><u>DESCRIPTION</u></b>	<b><u>COST</u></b>	<b><u>% MARKUP</u></b>
1.	please see the attached fee schedule and fee sheet for testing services and equipment		
2.			
3.			
4.			

**PUBLIC WORKS – REQUEST FOR QUALIFICATIONS RFQ25-3671CMI**

2025 Master Agreement Consultant Services  
for Construction Management & Inspection Services

June 24, 2025

Item #6

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EXHIBIT B – SAMPLE MASTER AGREEMENT RATE SCHEDULE

Prices valid through initial Term of Agreement

<u>SUB-CONSULTANTS</u>			
	<u>NAME/FIRM</u>	<u>TITLE</u>	<u>HOURLY RATE</u>
1.	Please see the attached fee schedules		
2.			
3.			
9.			
10.			



## 2025 AMENDED BILLING RATE SCHEDULE (Verdantas West)

### Professional Services

	<u>Hourly Rate</u>
Senior Consultant I, Associate	\$235.00
Senior Consultant II, Principal	\$265.00
Senior Consultant III, Sr. Principal	\$310.00
Project Manager	\$190.00
Senior Project Manager	\$215.00
Staff Engineer/Scientist/Geologist	\$155.00
Senior Staff Engineer/Scientist/Geologist	\$165.00
Project Engineer/Scientist/Geologist	\$190.00
Senior Engineer/Scientist/Geologist	\$215.00

### Support

	<u>Hourly Rate</u>
Field/Lab Technician I	\$90.00
Field/Lab Technician II/Special Inspector	\$100.00
Field/Lab Technician III/Special Inspector II	\$105.00
Senior Technician/Senior Special Inspector	\$115.00
Source Inspector	\$135.00
System Operation & Maintenance Specialist	\$150.00
Non-Destructive Testing (NDT) Specialist	\$170.00
Prevailing Wage (Group 1) *	\$145.00
Prevailing Wage (Group 2) *	\$158.00
Prevailing Wage (Group 3) *	\$160.00
City of Los Angeles Deputy Building/ Grading Inspector	\$160.00

### Support Cont'd

	<u>Hourly Rate</u>
Administrative/Technical	\$90.00
Editor/ Project Coordinator I	
Administrative//Technical	\$105.00
Editor/Project Coordinator II	
Operations / Laboratory Manager	\$185.00
Field/Lab Supervisor	\$150.00

### CAD/GIS/Data Management

	<u>Hourly Rate</u>
CAD Designer I	\$145.00
CAD Designer II	\$160.00
Project Designer	\$165.00
Senior Project Designer	\$185.00
CAD Technician I	\$125.00
CAD Technician II	\$140.00
CAD Technician III	\$150.00
GIS Analyst I	\$150.00
GIS Analyst II	\$160.00
Senior GIS Analyst	\$210.00
GIS Technician I	\$125.00
GIS Technician II	\$145.00
Data Manager	\$165.00
Senior Data Manager	\$185.00



## GEOTECHNICAL LABORATORY TESTING

METHOD	\$/TEST	METHOD	\$/TEST
<b>Classification &amp; Index Properties</b>		<b>Soil Chemistry &amp; Corrosivity cont'd</b>	
Photograph of sample	15	Sulfate content - by ion chromatograph (CTM 417 Part 2)	85
Moisture content (ASTM D2216)	25	Sulfate screen (Hach®)	35
Moisture & density (ASTM D2937) ring samples	37	Chloride content (AASHTO T291/CTM 422)	75
Moisture & density (ASTM D2937) Shelby tube or cutting	45	pH + minimum resistivity (CTM 643)	140
Atterberg limits 3 points (ASTM D4318)	160	Chloride content – by ion chromatograph (AASHTO T291/CTM 422)	85
- Single point, non-plastic	90	Corrosion suite: minimum resistivity, sulfate, chloride, pH (CTM 643)	285
- Atterberg limits (organic ASTM D2487 / D4318)	195	Organic matter content (ASTM D2974)	70
- Visual classification as non-plastic (ASTM D2488) Particle size:	15	<b>Consolidation &amp; Expansion/Swell Tests</b>	
- Sieve only 1½ inch to #200 (AASHTO T27/ASTM C136/ASTM D6913/CTM 202)	155	Consolidation (ASTM D2435):	210
- Large sieve 6 inch to #200 (AASHTO T27/ASTM C136/ASTM D6913/CTM 202)	195	Each additional time curve.	50
- Hydrometer only (ASTM D7928)	120	Each additional load/unload w/o time reading	45
- Sieve + hydrometer ≤3 inch sieve, (ASTM D7928)	200	Expansion Index (ASTM D4829)	140
- Percent passing #200 sieve, wash only (ASTM D1140)	75	Relative compaction of untreated/treated soils/aggregates (CTM 216)	270
Specific gravity and absorption of fine aggregate (AASHTO T84/ASTM C128/ASTM D854/CTM 207)	140	Relative density 0.1 ft mold (ASTM D4253, D4254)	250
Specific gravity and absorption of coarse aggregate (AASHTO T85/ASTM C127/CTM 206)	110	California Bearing Ratio (ASTM D1883) - 3 point	535
Total porosity - on Shelby tube sample (calculated)	180	California Bearing Ratio (ASTM D1883) - 1 point	200
Total porosity - on other sample (calculated)	165	R-Value untreated soils/aggregates (AASHTO T190/ASTM D2844/CTM 301)	335
Shrinkage limits wax method (ASTM D4943)	135	R-Value lime or cement treated soils/aggregates (AASHTO T190/ASTM D2844/CTM 301)	365
Pinhole dispersion (ASTM D4647)	225	Swell collapse Method A up to 10 load/unloads w/o time curves (ASTM D4546-A)	310
Total porosity - on other sample (calculated)	165	Single load swell/collapse - Method B (ASTM D4546-B, seat, load & inundate only)	115
Dispersive characteristics (double hydrometer ASTM D4221)	215	<b>Triaxial Tests</b>	
As-received moisture & density (chunk/carved sample)	65	Unconfined compression strength of cohesive soil (with stress/strain plot, ASTM D2166)	145
Sand Equivalent (AASHTO T176/ASTM D2419/CTM 217)	115	Unconsolidated undrained triaxial compression test on cohesive soils(UU, ASTM D2850, USACE Q test, per confining stress)	185
Sieve + hydrometer ≤3-inch sieve, (ASTM D7928)	200	Consolidated undrained triaxial compression test for cohesive soils, (CU, ASTM D4767, USACE R-bar test) with back pressure saturation & pore water pressure measurement (per confining stress)	400
<b>Shear Strength</b>		Consolidated drained triaxial compression test (CD, USACE S), with volume change measurement. Price per soil type below EM 1110-21906(X):	
Pocket penetrometer	20	- Sand or silty sand soils (per confining stress)	400
Direct shear (ASTM D3080, mod., 3 points):		- Silt or clayey sand soils (per confining stress)	535
- Consolidated undrained - 0.05 inch/min (CU)	320	- Clay soils (per confining stress)	755
- Consolidated drained - <0.05 inch/min (CD)	385	- Three-stage triaxial (sand or silty sand soils)	700
Residual shear EM 1110-2-1906-IXA (price per each additional pass after shear)	55	- Three-stage triaxial (silt or clayey sand soils)	935
Remolding or hand trimming of specimens (3 points)	95	- Three-stage triaxial (clay soils)	1,320
Oriented or block hand trimming (per hour)	70	- Remolding of test specimens	70
Single point shear	115	<b>Hydraulic Conductivity Tests</b>	
Torsional shear (ASTM D6467 / ASTM D7608)	880	Triaxial permeability in flexible-wall permeameter with backpressure saturation at one effective stress (EPA 9100/ASTM D5084, falling head Method C):	335
<b>Compaction &amp; Pavement Subgrade Tests</b>		Each additional effective stress	130
Standard Proctor compaction, 4 points (ASTM D698)		Hand trimming of soil samples for horizontal K	65
- 4-inch diameter mold (Methods A & B)	170	Remolding of test specimens	70
- 6-inch diameter mold (Method C)	230	Permeability of granular soils (ASTM D2434)	145
Modified Proctor compaction 4 points (ASTM D1557):		<b>Soil-Cement</b>	
- 4-inch diameter mold Methods A & B	235	Moisture-density curve for soil-cement mixtures (ASTM D558)	260
- 6-inch diameter mold Method C	265	Wet-dry durability of soil-cement mixtures (ASTM D559) <sup>1</sup>	1,290
Check point (per point)	70	Compressive strength of molded soil-cement cylinder (ASTM D1633) <sup>1</sup>	65
Relative compaction of untreated/treated soils/aggregates (CTM 216)	270	Soil-cement remolded specimen (for shear strength, consolidation, etc.) <sup>1</sup>	250
Relative density 0.1 ft mold (ASTM D4253, D4254)	250	<sup>1</sup> Compaction (ASTM D558 maximum density) should also be performed – not included in above price	
California Bearing Ratio (ASTM D1883) - 3 point	535		
California Bearing Ratio (ASTM D1883) - 1 point	200		
R-Value untreated soils/aggregates (AASHTO T190/ASTM D2844/CTM 301)	335		
R-Value lime or cement treated soils/aggregates (AASHTO T190/ASTM D2844/CTM 301)	365		
<b>Soil Chemistry &amp; Corrosivity</b>			
pH Method A (ASTM D4972 or CTM 643)	50		
Electrical resistivity – single point – as received moisture	50		
Minimum resistivity 3 moisture content points (ASTM G187/CTM 643)	95		
pH + minimum resistivity (CTM 643)	140		
Sulfate content - gravimetric (CTM 417 B Part 2)	75		





## CONSTRUCTION MATERIALS LABORATORY TESTING

METHOD	\$/TEST	METHOD	\$/TEST
<b>Concrete Strength Characteristics</b>		<b>Aggregate Properties cont'd</b>	
Concrete cylinders compression (ASTM C39) (6" x 12" and 4" x 8")	40	Flat & elongated particles in coarse aggregate (ASTM D4791/CTM 235)	230
Compression, concrete or masonry cores (testing only) ≤6 inch (ASTM C42)	45	Cleaness value of coarse aggregate (CTM 227)	225
Trimming concrete cores (per core)	25	Soundness, magnesium (AASHTO T104/ASTM C88/CTM 214)	240
Flexural strength of concrete (simple beam-3rd pt. loading, ASTM C78/CTM 523)	90	Soundness, sodium (AASHTO T104/ASTM C88/CTM 214)	695
Flexural strength of concrete (simple beam- center pt. loading, ASTM C293/CTM 523)	90	<b>Masonry</b>	
Non shrink grout cubes (2 inch, ASTM C109/C1107)	30	Mortar cylinders 2" x 4" (ASTM C780)	35
Drying shrinkage - four readings, up to 90 days, 3 bars (ASTM C157)	430	Grout prisms 3" x 6" (ASTM C1019).	35
Length of concrete cores (CTM 531)	45	Masonry cores compression, ≤6" diameter - testing only (ASTM C42)	45
<b>Hot Mix Asphalt (HMA)</b>		Masonry core shear testing (Title 24)	85
Resistance of compacted HMA to moisture-induced damage (AASHTO T283/CTM 371)	2,250	Veneer bond strength, cost for each - 5 required (ASTM C482)	60
Hamburg Wheel, 4 briquettes (modified) (AASHTO T324)	965	CMU compression to size 8" x 8" x 16" - 3 required (ASTM C140)	60
Superpave gyratory compaction (AASHTO T312/ ASTM D6925)	375	CMU moisture content, absorption & unit weight - 6 required (ASTM C140)	55
Extraction by ignition oven, percent asphalt (AASHTO T308/ASTM D6307/CTM 382)	160	CMU linear drying shrinkage (ASTM C426)	190
Ignition oven correction/correlation values (AASHTO T308/ASTM D6307/CTM 382)	1,445	CMU grouted prisms compression test ≤8" x 8" x 16" (ASTM C1314)	215
Extraction by centrifuge, percent asphalt (ASTM D2172)	160	CMU grouted prisms compression test > 8" x 8" x 16" (ASTM C1314)	270
Gradation of extracted aggregate (AASHTO T30/ ASTM D5444/CTM 202)	145	<b>Fasteners/Bolts/Rods</b>	
Stabilometer, S-Value (ASTM D1560/CTM 366)	285	F1554 Bolts, tensile test, ≤ up to 1-1/4" diameter, plain (ASTM A370)	110
Bituminous mixture preparation (AASHTO R30/ CTM 304)	85	F1554 Bolts, tensile test, ≤ up to 1-1/4" diameter, galvanized (ASTM A370)	130
Moisture content of HMA (AASHTO T329/ASTM D6037 /CTM 370)	65	F3125 GR A307, A325 Bolts, tensile test, ≤ up to 1-1/4" diameter, plain (ASTM A370)	70
Bulk specific gravity of compacted HMA, molded specimen or cores, uncoated (AASHTO T166/ ASTM D2726/CTM 308)	55	F3125 GR A307, A325 Bolts, tensile test, ≤ up to 1-1/4" diameter, galvanized (ASTM A370)	80
Bulk specific gravity of compacted HMA, molded specimen or cores, paraffin-coated (AASHTO T275/ ASTM D1188/CTM 308)	60	A490 Bolts, tensile test, ≤ up to 1-1/4" diameter, plain (ASTM A370)	70
Maximum density - Hveem (CTM 308)	215	A490 Bolts, tensile test, ≤ up to 1-1/4" diameter, galvanized (ASTM A370)	80
Theoretical maximum density and specific gravity of HMA (AASHTO T209/ASTM D2041/CTM 309)	140	A593 Bolts, tensile test, ≤ up to 1-1/4" diameter, stainless steel (ASTM A370)	70
Thickness or height of compacted bituminous paving Mixture specimens (ASTM D3549)	45	<b>Reinforcing Steel and Prestressing Strands</b>	
Wet track abrasion of slurry seal (ASTM D3910)	160	Rebar bend test, up to No. 11 (ASTM A370)	70
Rubberized asphalt (add to above rates)	+25%	Rebar bend test, ≥ No. 14 & over (ASTM A370)	215
<b>Brick</b>		Resistance butt-welded hoops/bars, tensile test, ≤ up to No. 10 (CTM 670)	70
Compression - cost for each, 5 required (ASTM C67)	55	Resistance butt-welded hoops/bars, tensile test, ≥ No. 11 & over (CTM 670)	90
Absorption - cost for each, 5 required (ASTM C67)	55	Mechanical rebar splice, tensile test, ≤ up to No. 11 (CTM 670)	70
<b>Aggregate Properties</b>		Mechanical rebar splice, slip test, ≤ up to No. 11 (CTM 670)	45
Bulk density and voids in aggregates (AASHTO T19/ ASTM C29/ CTM 212)	55	Mechanical rebar splice, tensile test, ≥ No. 14 & over (CTM 670)	215
Organic impurities in fine aggregate sand (AASHTO T21/ ASTM C40/CTM 213)	65	Mechanical rebar splice, slip test, ≥ No. 14 & over (CTM 670)	215
LA Rattler-smaller coarse aggregate <1.5" (AASHTO /ASTM C131/ CTM 211)	215	Headed rebar splice, tensile test, ≤ up to No. 11 (CTM 670)	70
LA Rattler-larger coarse aggregate 1-3" (AASHTO T96/ ASTM C535/CTM 211)	270	Headed rebar splice, tensile test, ≥ No. 14 & over (CTM 670)	215
Apparent specific gravity of fine aggregate (AASHTO T84/ ASTM C128/CTM 208)	140	Epoxy coated rebar/dowel continuity (Holiday) (ASTM A775/A934)	70
Specific gravity and absorption of coarse aggregate (ASTM C127/CTM 206) >#4 retained	110	Epoxy coated rebar flexibility/bend test, up to No. 11 (ASTM A775/A934)	50
Clay lumps, friable particles (AASHTO T112/ASTM C142)	190	Prestressing wire, tension (ASTM A416)	190
Durability Index (AASHTO T210/ASTM D3744/ CTM 229)	215	Sample preparation (cutting)	55
Moisture content of aggregates by oven drying (AASHTO T255/ASTM C566/CTM 226)	45	Epoxy coated rebar/dowel film thickness (coating) test (ASTM A775/ A934)	50
Uncompacted void content of fine aggregate (AASHTO T304/ ASTM C1252/ CTM 234)	140		
Percent of crushed particles (AASHTO T335/ ASTM D5821/CTM 205)	145		



## CONSTRUCTION MATERIALS LABORATORY TESTING

METHOD	\$/TEST	METHOD	\$/TEST
<b>Streetlights/Signals</b>		<b>Bearing Pads/Plates and Joint Seal</b>	
LED Luminaires / Signal Modules / Countdown	By	Elastomeric bearing pads (Caltrans SS 51-3)	1,060
Pedestrian Signal Face Modules (Caltrans RSS 86)	Quote	Elastomeric bearing pad with hardness and compression tests (Caltrans SS 51-3)	1,315
<b>Spray Applied Fireproofing</b>		Type A Joint Seals (Caltrans SS 51-2)	1,735
Unit weight (density, ASTM E605)	65	Type B Joint Seals (Caltrans SS 51-2)	1,640
<b>Sample Transport</b>		Bearing plates (A536)	770
Pick-up and delivery (weekdays, per trip, <50 mile radius from our office)	110		

### Notes

- Earth Material Samples:** Quoted testing unit rates are for soil and/or rock (earth) samples free of hazardous materials. Additional costs will accrue beyond these standard testing unit rates for handling, testing and/or disposing of soil and/or rock containing hazardous materials. Hazardous materials will be returned to the site or the site owner's designated representative at additional cost not included in listed unit rates. Standard turn-around time for geotechnical-laboratory test results is 10 working days. Samples will be stored for 2 months following completion of assigned tests, after which they will be discarded. Prior documented notification is required if samples need to be stored for a longer time. A monthly storage fee of \$15 per bag and \$6 per sleeve or tube will be applied. Quoted unit rates are only for earth materials sampled in California. There may be additional cost for handling imported samples.
- Construction Material Samples:** After all designated breaks for a given sample set meet specified compressive at design age or other client-designated strength, all "hold" cylinders or specimens will be automatically disposed of, unless specified in writing prior to the 28-day break. Unless specifically requested otherwise, all other construction materials will be disposed of after completion of testing and reporting.

## EQUIPMENT LISTING

CLASSIFICATION	\$/UNIT	CLASSIFICATION	\$/UNIT
1/4 inch Grab plates	5/ each	Global Positioning System/Laser Range Finder	80/day
1/4 inch Tubing (bonded)	0.60/foot	Hand auger set	90/day
1/4 inch Tubing (single)	0.40/foot	HDPE safety fence (≤100 feet)	40/roll
3/8 inch Tubing, clear vinyl	0.60/foot	Horiba U-51 water quality meter	135/day
4-Gas meter (RKI Eagle or similar)/GEM 2000	140/day	Light tower (towable vertical mast)	150/day
Air flow meter and purge pump (200 cc/min)	55/day	Magnehelic gauge	15/day
Box of 24 soil drive-sample rings	130/box	Manometer	25/day
Brass sample tubes	11/each	Mileage (will adjust with IRS published rate)	0.70/mile
Caution tape (1000-foot roll)	22/each	Moisture test kit (excludes labor to perform test, ASTM E1907)	65/test
Combination lock or padlock	15/each	Nuclear moisture and density gauge	88/day
Compressed air tank and regulator	55/day	Electrical moisture and density gauge	88/Day
Concrete coring machine (≤6-inch-dia)	160/day	Pachometer	50/day
Consumables (gloves, rope, soap, tape, etc.)	40/day	Particulate Monitor	135/day
Core sample boxes	30/each	pH/Conductivity/Temperature meter	60/day
Crack monitor Two-Dimensional	30/each	Photo-Ionization Detector (PID)	150/day
Crack monitor Three-Dimensional	40/each	Pump, Typhoon 2 or 4 stage	55/day
Cutoff saws, reciprocating, electric (Sawzall®)	80/day	QED bladder pump w/QED control box	175/day
D-Meter Walking Floor Profiler	110/day	Quire fee – Phase I only	250/each
Disposable bailers	25/each	Resistivity field meter and pins	200/day
Disposable bladders	20/each	Slip / threaded cap, 2-inch or 4-inch diameter,	20/each
Dissolved oxygen meter	75/day	PVC Schedule 40	
DOT 55-gallon containment drum with lid	85/drum	Slope inclinometer	250/day
Double-ring infiltrometer	135/day	Soil sampling T-handle (Encore)	10/day
Dual-stage interface probe	85/day	Soil sampling tripod	40/day
Dynamic Cone Penetrometer	430/day	Speedy (R) moisture tester	10/day
Generator, portable gasoline fueled, 3,500 watts	90/day	Vapor sampling box	65/day
Stainless steel bailer	60/day	Vehicle usage (carrying equipment)	16/hour
Submersible pump with controller	180/day	VelociCalc	40/day
Submersible pump/transfer pump, 10-25 gpm	65/day	Visqueen (20 x 100 feet)	130/roll
Support service truck usage (well installation)	250/day	Water level indicator (electronic well sounder)	100/day
Survey/fence stakes	10/each	<300 feet deep well	
Tedlar® bags	25/each	ZIPLEVEL®.	40/day
Traffic cones (≤25)/barricades (single lane)	55/day	<i>Other specialized geotechnical and environmental testing and monitoring equipment are available, and priced per site</i>	
Turbidity meter	80/day		
Tyvek® suit (each)	25/each		

**MASTER AGREEMENT FOR  
MECHANICAL/ELECTRICAL/PLUMBING (MEP) ENGINEERING SERVICES  
IDS GROUP, INC.**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of June, 2025, but effective July 1, 2025, by and between the City of Carlsbad, California, a municipal corporation, ("City"), and IDS Group, Inc., a California corporation ("Contractor").

**RECITALS**

- A. City requires the professional services of a consultant that is experienced in mechanical, electrical, plumbing (MEP) engineering.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to mechanical, electrical, plumbing (MEP) engineering.
- D. Contractor has submitted a proposal to the city responsive to Request for Qualifications RFQ25-3437CA and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, City and Contractor agree as follows:

**1. SCOPE OF WORK**

City retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A", which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective for a period of three (3) years from July 1, 2025, through June 30, 2028. The City Manager may amend the Agreement to extend it for two (2) additional one (1) year(s) periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, City needs, and appropriation of funds by the City Council. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by City and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the City Manager or the Division Director ("Director") as authorized by the City Manager. The City Manager or Director will give allowance for

documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight on the part of Contractor, or delays caused by City inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed two hundred thousand dollars (\$200,000). Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, City shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for City, the City Manager or Director, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

If the City elects to extend the term of the Master Services Agreement, adjustments to the rate schedule may be permitted. Upon receipt of a written request from the Contractor, the City may consider approving a rate schedule increase. Rate schedule increases will be considered for each anniversary of the Agreement effective date after the initial three-year term. An increase to the rate schedule will be calculated based on the proceeding 12-month percentage change in the Consumer Price Index, San Diego Area, for All Urban Customers (CPI-U), as reported by the Bureau of Labor Statistics or 5.0%, whichever is lower. If the CPI-U is a negative number, then the rate schedule will not be adjusted for that year. The Contractor must submit a request and justification to increase the rate schedule at least sixty days prior to the anniversary of the effective date, assuming the City opt to extend the Master Services Agreement. The justification accompanying the written request should detail the rationale for the requested adjustment, and the requested adjustment amount, supported by relevant documentation (e.g., CPI-U or 5.0%, whichever is less). Approval of rate schedule increase by the City must be documented in an amendment to the Agreement.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California

Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize the Owner's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. The Contractor is required to create a free web-based Procore user account(s) and utilize web-based training / tutorials (as needed) to become familiar with the system. Unless the Engineer approves otherwise, the Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. The Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of the Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that the Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, RFIs, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

## **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of City. Contractor will be under control of City only as to the result to be accomplished, but will consult with City as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of City for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. City will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. City will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify City within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which City may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At the City's election, City may deduct the indemnification amount from any balance owing to Contractor.

**9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

**10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of City. If Contractor subcontracts any of the Services, Contractor will be fully responsible to City for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and City. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by City.

**11. OTHER CONTRACTORS**

The City reserves the right to employ other Contractors in connection with the Services.

**12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by the City), indemnify, and hold harmless the City and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation program is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

**13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current

Best's Key Rating of not less than "A-:VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

13.1 Coverages and Limits. Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability (CGL) Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to City's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 The City will be named as an additional insured on Commercial General Liability which shall provide primary coverage to the City.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to City sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to City's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to City.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then City will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by City to obtain or maintain insurance and City may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. City reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

14. **BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

15. **ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

16. **OWNERSHIP OF DOCUMENTS**

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of City. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to City. Contractor will have the right to make one (1) copy of the work product for Contractor's records.

17. **COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in City and Contractor relinquishes all claims to the copyrights in favor of City.

18. **NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of City and on behalf of Contractor under this Agreement are:

<u>For City:</u>	
Name	<u>Eleida Felix Yackel</u>
Title	<u>Senior Contract Administrator</u>
Dept	<u>Public Works/ Contract Admin</u>
	<u>CITY OF CARLSBAD</u>
Address	<u>1635 Faraday Ave.</u>
	<u>Carlsbad, CA 92008</u>

<u>For Contractor:</u>	
Name	<u>Rami Elhassan</u>
Title	<u>Vice President</u>
Address	<u>1 Peters Canyon Road</u>
	<u>Irvine, CA 92606</u>
Phone	<u>949-387-8500</u>
Email	<u>rami.elhassan@idsgi.com</u>



Phone 442-339-2767

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

**19. GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or City will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, City may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If City decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, City may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by City and all work in progress to City at the address contained in this Agreement. City will make a determination of fact based upon the work product delivered to City and of the percentage of work that Contractor has performed which is

usable and of worth to City in having the Agreement completed. Based upon that finding City will determine the final payment of the Agreement.

City may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to City. In the event of termination of this Agreement by either party and upon request of City, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to City. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. City will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, City will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any Agreement claim submitted to City must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to City, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If City seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon City and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of City, which shall not be unreasonably withheld.

**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the City and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract, and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}

CONTRACTOR  
IDS Group, Inc., a California corporation

CITY OF CARLSBAD, a municipal  
corporation of the State of California

By: Said Hilmy, President  
(sign here)

By: \_\_\_\_\_  
Keith Blackburn, Mayor

Said Hilmy, President  
\_\_\_\_\_  
(print name/title)

ATTEST:

By: Rami Elhassan, Secretary  
(sign here)

SHERRY FREISINGER, City Clerk

By: \_\_\_\_\_  
Faviola Medina,  
Director of Constituent & Clerk Services

Rami Elhassan, Secretary  
\_\_\_\_\_  
(print name/title)

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

**Group A**  
Chairman,  
President, **or**  
Vice-President

**Group B**  
Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, City Attorney

BY: Cindie K. McMahon

**EXHIBIT A****SCOPE OF SERVICES AND FEES**

Perform a variety of tasks related to mechanical, electrical, plumbing (MEP) engineering, as outlined in the individual Project Task Descriptions and Fee Allotments (PTD&FA), including but not limited to the following:

- A. Complete Design Services.
- B. Mechanical Unit Specification/ Title 24 Compliance.
- C. Design Troubleshooting.
- D. As-Built Verifications.

Requests for work not listed above must be contracted under separate agreement.



## ATTACHMENT B-MASTER SERVICES AGREEMENT RATE SCHEDULE

### Discipline No. 7-MEP Engineering

Prices valid through Term of Agreement

STAFF NAME	TITLE	HOURLY RATE
Rami Elhassan, PhD, PE, SE	Principal In Charge / Contract Administration	\$248
Darren Smith, PE, BEAP	Associate Principal	\$233
Steven Collins, PE, LEED AP	Associate Principal	\$233
Anthony Zanotti, PE	Senior Project Manager	\$224
Andrew Bussey, PE	Senior Project Manager	\$224
Mike Lin, PE, LEED AP BD+C	Senior Project Manager	\$224
Manolito Ocampo, PE	Senior Project Manager	\$224
Bob Kramer	Senior Project Manager	\$224
Michael Reed	Senior Project Manager	\$224
Stuart McKnight	Senior Designer	\$180
Ronnie Jimenez, LEED AP BD+C	Project Manager	\$209
Kevin Barnes	Project Manager	\$209
Michelle Huynh, PE	Project Manager	\$209

SUBCONSULTANT STAFF NAME	TITLE	HOURLY RATE
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Not Applicable

EXPENSES DESCRIPTION	COST	% MARK-UP
Mileage	\$0.67	10%

Expenses such as, but not limited to plan check fees, permits inspections, testing services, title company fees, special delivery charges, plotting/presentation boards, maps, aerial photographs, and reprographics / illustrations that may be required for community or other stakeholder presentations, shall be billed to the owner at Consultant's direct cost plus 10%.

*Our standard rate sheet follows Attachment B with hourly rates of staff members who may be utilized as-needed in addition to the key staff members listed above.*



# Standard Rates

## IDS GROUP, INC.

### City of Carlsbad Master Services Agreement for Consultants Number: RFQ25-3437CA

Title - Association	Hourly Rate
Principal	\$248
Associate Principal	\$233
Senior Project Manager   Associate	\$224
Senior Planner	\$224
QA/QC Manager	\$224
Registered Architect   Engineer	\$209
Project Manager	\$209
Senior Architect   Engineer	\$196
Senior Cost Estimator	\$186
Project Architect   Engineer	\$186
Senior Designer	\$180
Designer Architect   Engineer	\$170
Specifications Writer	\$170
Engineering Designer - BIM	\$147
Architectural Job Captain   Designer	\$140
CAD Drafting Engineer   Architect	\$125
Office Administration	\$77

Expenses such as, but not limited to plan check fees, permits inspections, testing services, title company fees, special delivery charges, plotting/presentation boards, maps, aerial photographs, and reprographics / illustrations that may be required for community or other stakeholder presentations, shall be billed to the owner at Consultant's direct cost plus 10%.

**MASTER AGREEMENT FOR  
MECHANICAL/ELECTRICAL/PLUMBING (MEP) ENGINEERING SERVICES  
BSE ENGINEERING, INC.**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of June, 2025, but effective July 1, 2025, by and between the City of Carlsbad, California, a municipal corporation, ("City"), and BSE Engineering, Inc., a California corporation ("Contractor").

**RECITALS**

- A. City requires the professional services of a consultant that is experienced in mechanical, electrical, plumbing (MEP) engineering.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to mechanical, electrical, plumbing (MEP) engineering.
- D. Contractor has submitted a proposal to the city responsive to Request for Qualifications RFQ25-3437CA and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, City and Contractor agree as follows:

**1. SCOPE OF WORK**

City retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A", which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective for a period of three (3) years from July 1, 2025, through June 30, 2028. The City Manager may amend the Agreement to extend it for two (2) additional one (1) year(s) periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, City needs, and appropriation of funds by the City Council. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by City and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the City Manager or the Division Director ("Director") as authorized by the City Manager. The City Manager or Director will give allowance for



documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight on the part of Contractor, or delays caused by City inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed two hundred thousand dollars (\$200,000). Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, City shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for City, the City Manager or Director, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

If the City elects to extend the term of the Master Services Agreement, adjustments to the rate schedule may be permitted. Upon receipt of a written request from the Contractor, the City may consider approving a rate schedule increase. Rate schedule increases will be considered for each anniversary of the Agreement effective date after the initial three-year term. An increase to the rate schedule will be calculated based on the proceeding 12-month percentage change in the Consumer Price Index, San Diego Area, for All Urban Customers (CPI-U), as reported by the Bureau of Labor Statistics or 5.0%, whichever is lower. If the CPI-U is a negative number, then the rate schedule will not be adjusted for that year. The Contractor must submit a request and justification to increase the rate schedule at least sixty days prior to the anniversary of the effective date, assuming the City opt to extend the Master Services Agreement. The justification accompanying the written request should detail the rationale for the requested adjustment, and the requested adjustment amount, supported by relevant documentation (e.g., CPI-U or 5.0%, whichever is less). Approval of rate schedule increase by the City must be documented in an amendment to the Agreement.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California

Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize the Owner's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. The Contractor is required to create a free web-based Procore user account(s) and utilize web-based training / tutorials (as needed) to become familiar with the system. Unless the Engineer approves otherwise, the Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. The Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of the Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that the Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, RFIs, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

## **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of City. Contractor will be under control of City only as to the result to be accomplished, but will consult with City as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of City for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. City will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. City will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify City within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which City may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At the City's election, City may deduct the indemnification amount from any balance owing to Contractor.

**9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

**10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of City. If Contractor subcontracts any of the Services, Contractor will be fully responsible to City for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and City. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by City.

**11. OTHER CONTRACTORS**

The City reserves the right to employ other Contractors in connection with the Services.

**12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by the City), indemnify, and hold harmless the City and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation program is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

**13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current

Best's Key Rating of not less than "A-:VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

13.1 Coverages and Limits. Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability (CGL) Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to City's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 The City will be named as an additional insured on Commercial General Liability which shall provide primary coverage to the City.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to City sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to City's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to City.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then City will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by City to obtain or maintain insurance and City may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. City reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

**14. BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

**15. ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

**16. OWNERSHIP OF DOCUMENTS**

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of City. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to City. Contractor will have the right to make one (1) copy of the work product for Contractor's records.

**17. COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in City and Contractor relinquishes all claims to the copyrights in favor of City.

**18. NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of City and on behalf of Contractor under this Agreement are:

<u>For City:</u>	
Name	<u>Eleida Felix Yackel</u>
Title	<u>Senior Contract Administrator</u>
Dept	<u>Public Works/ Contract Admin</u>
	<u>CITY OF CARLSBAD</u>
Address	<u>1635 Faraday Ave.</u>
	<u>Carlsbad, CA 92008</u>

<u>For Contractor:</u>	
Name	<u>Paul Luster</u>
Title	<u>Principal</u>
Address	<u>9903 Businesspark Avenue, Suite 104</u>
	<u>San Diego, CA 92121</u>
Phone	<u>858 800-6000</u>
Email	<u>pluster@bseengineering.com</u>

Phone 442-339-2767

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

**19. GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or City will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, City may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If City decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, City may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by City and all work in progress to City at the address contained in this Agreement. City will make a determination of fact based upon the work product delivered to City and of the percentage of work that Contractor has performed which is

usable and of worth to City in having the Agreement completed. Based upon that finding City will determine the final payment of the Agreement.

City may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to City. In the event of termination of this Agreement by either party and upon request of City, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to City. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. City will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, City will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any Agreement claim submitted to City must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to City, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If City seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon City and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of City, which shall not be unreasonably withheld.

**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the City and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract, and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}



CONTRACTOR  
BSE ENGINEERING, INC., a California  
corporation

CITY OF CARLSBAD, a municipal  
corporation of the State of California

By: Alan Brown, PE, President  
(sign here)

By: \_\_\_\_\_  
Keith Blackburn, Mayor

Alan James Brown, President  
\_\_\_\_\_  
(print name/title)

ATTEST:

By: Paul Luster  
(sign here)

SHERRY FREISINGER, City Clerk

By: \_\_\_\_\_  
Faviola Medina,  
Director of Constituent & Clerk Services

Paul A. Luster, Chief Financial Officer  
\_\_\_\_\_  
(print name/title)

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

**Group A**  
Chairman,  
President, **or**  
Vice-President

**Group B**  
Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, City Attorney

BY: Cindie K. McMahon

**EXHIBIT A****SCOPE OF SERVICES AND FEES**

Perform a variety of tasks related to mechanical, electrical, plumbing (MEP) engineering, as outlined in the individual Project Task Descriptions and Fee Allotments (PTD&FA), including but not limited to the following:

- A. Complete Design Services.
- B. Mechanical Unit Specification/ Title 24 Compliance.
- C. Design Troubleshooting.
- D. As-Built Verifications.

Requests for work not listed above must be contracted under separate agreement.



Statement of Qualifications  
City of Carlsbad  
Contract Administration, Public Works Branch  
Master Services Agreement for Consultants  
No. RFQ25-3437CA



RFQ25-3437CA REQUEST FOR QUALIFICATIONS  
MASTER SERVICES AGREEMENT FOR CONSULTANTS

3-year rate

Staff			
	Name	Title	Hourly Rate
1	Alan Brown	Principal Engineer	\$ 294.00
2	Paul Luster	Principal Engineer	\$ 294.00
3	Ross Slocum	Senior Associate	\$ 250.00
4	Brandon Reed	Senior Associate	\$ 250.00
5	Bobby Rodriguez	Senior Associate	\$ 250.00
6	Karl Fish	Senior Associate	\$ 250.00
7	TBD	Associate Engineer	\$ 229.00
8	Miriam Pinzon-Batancourt	Senior Engineer	\$ 208.00
9	Jordan Katz	Project Engineer	\$ 192.00
10	TBD	Engineer II	\$ 159.00
11	Matthew Ballerini	Engineer I	\$ 142.00
12	Noel Willshusen	Senior Designer	\$ 160.00
13	Kevin Sheppard	Senior Designer	\$ 161.00
14	Julio Inaheta	Senior Designer	\$ 160.00
15	TBD	Designer II	\$ 139.00
16	TBD	Designer I	\$ 116.00
17	Jeremy Carnahan	Senior CAD	\$ 117.00
18	Patrick Adams	Senior CAD	\$ 117.00
19	TBD	CAD II	\$ 101.00
20	Elizabeth Potts	CAD I	\$ 84.00
21	Vanessa Ortega	Senior Administrator	\$ 149.00
22	Lisa Velazquez	Admin	\$ 83.00

**MASTER AGREEMENT FOR  
MECHANICAL/ELECTRICAL/PLUMBING (MEP) ENGINEERING SERVICES  
SHADPOUR CONSULTING ENGINEERS, LP**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of June, 2025, but effective July 1, 2025, by and between the City of Carlsbad, California, a municipal corporation, ("City"), and Shadpour Consulting Engineers, LP, a California limited partnership ("Contractor").

**RECITALS**

- A. City requires the professional services of a consultant that is experienced in mechanical, electrical, plumbing (MEP) engineering.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to mechanical, electrical, plumbing (MEP) engineering.
- D. Contractor has submitted a proposal to the city responsive to Request for Qualifications RFO25-3437CA and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, City and Contractor agree as follows:

**1. SCOPE OF WORK**

City retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A", which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective for a period of three (3) years from July 1, 2025, through June 30, 2028. The City Manager may amend the Agreement to extend it for two (2) additional one (1) year(s) periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, City needs, and appropriation of funds by the City Council. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by City and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the City Manager or the Division Director ("Director") as authorized by the City Manager. The City Manager or Director will give allowance for

documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight on the part of Contractor, or delays caused by City inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed two hundred thousand dollars (\$200,000). Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, City shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for City, the City Manager or Director, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

If the City elects to extend the term of the Master Services Agreement, adjustments to the rate schedule may be permitted. Upon receipt of a written request from the Contractor, the City may consider approving a rate schedule increase. Rate schedule increases will be considered for each anniversary of the Agreement effective date after the initial three-year term. An increase to the rate schedule will be calculated based on the proceeding 12-month percentage change in the Consumer Price Index, San Diego Area, for All Urban Customers (CPI-U), as reported by the Bureau of Labor Statistics or 5.0%, whichever is lower. If the CPI-U is a negative number, then the rate schedule will not be adjusted for that year. The Contractor must submit a request and justification to increase the rate schedule at least sixty days prior to the anniversary of the effective date, assuming the City opt to extend the Master Services Agreement. The justification accompanying the written request should detail the rationale for the requested adjustment, and the requested adjustment amount, supported by relevant documentation (e.g., CPI-U or 5.0%, whichever is less). Approval of rate schedule increase by the City must be documented in an amendment to the Agreement.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California

Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize the Owner's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. The Contractor is required to create a free web-based Procore user account(s) and utilize web-based training / tutorials (as needed) to become familiar with the system. Unless the Engineer approves otherwise, the Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. The Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of the Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that the Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, RFIs, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

## **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of City. Contractor will be under control of City only as to the result to be accomplished, but will consult with City as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of City for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. City will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. City will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify City within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which City may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At the City's election, City may deduct the indemnification amount from any balance owing to Contractor.

**9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

**10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of City. If Contractor subcontracts any of the Services, Contractor will be fully responsible to City for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and City. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by City.

**11. OTHER CONTRACTORS**

The City reserves the right to employ other Contractors in connection with the Services.

**12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by the City), indemnify, and hold harmless the City and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation program is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

**13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current

Best's Key Rating of not less than "A-:VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

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13.1.1 Commercial General Liability (CGL) Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to City's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 The City will be named as an additional insured on Commercial General Liability which shall provide primary coverage to the City.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to City sent by certified mail pursuant to the Notice provisions of this Agreement.



13.3 Providing Certificates of Insurance and Endorsements. Prior to City's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to City.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then City will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by City to obtain or maintain insurance and City may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. City reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

14. **BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

15. **ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

16. **OWNERSHIP OF DOCUMENTS**

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of City. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to City. Contractor will have the right to make one (1) copy of the work product for Contractor's records.

17. **COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in City and Contractor relinquishes all claims to the copyrights in favor of City.

18. **NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of City and on behalf of Contractor under this Agreement are:

<u>For City:</u>	
Name	<u>Eleida Felix Yackel</u>
Title	<u>Senior Contract Administrator</u>
Dept	<u>Public Works/ Contract Admin</u>
	<u>CITY OF CARLSBAD</u>
Address	<u>1635 Faraday Ave.</u>
	<u>Carlsbad, CA 92008</u>

<u>For Contractor:</u>	
Name	<u>Frank Shadpour</u>
Title	<u>President</u>
Address	<u>17075 Via Del Campo</u>
	<u>San Diego, CA 92127</u>
Phone	<u>858-946-0333</u>
Email	<u>frank@scengineers.net</u>

Phone 442-339-2767

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

**19. GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or City will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, City may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If City decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, City may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by City and all work in progress to City at the address contained in this Agreement. City will make a determination of fact based upon the work product delivered to City and of the percentage of work that Contractor has performed which is

usable and of worth to City in having the Agreement completed. Based upon that finding City will determine the final payment of the Agreement.

City may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to City. In the event of termination of this Agreement by either party and upon request of City, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to City. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. City will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, City will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any Agreement claim submitted to City must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to City, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If City seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon City and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of City, which shall not be unreasonably withheld.

**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the City and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract, and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}

CONTRACTOR  
SHADPOUR CONSULTING  
ENGINEERS, LP, a California limited  
partnership

CITY OF CARLSBAD, a municipal  
corporation of the State of California

By: Frank Shadpour, PE, President  
(sign here)

By: \_\_\_\_\_  
Keith Blackburn, Mayor

Frank F. Shadpour, President  
(print name/title)

ATTEST:

By: Wendy Shadpour  
(sign here)

SHERRY FREISINGER, City Clerk

By: \_\_\_\_\_  
Faviola Medina,  
Director of Constituent & Clerk Services

Wendy Shadpour, Secretary  
(print name/title)

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

**Group A**  
Chairman,  
President, **or**  
Vice-President

**Group B**  
Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, City Attorney

BY: Cindie K. McMahon

**EXHIBIT A****SCOPE OF SERVICES AND FEES**

Perform a variety of tasks related to mechanical, electrical, plumbing (MEP) engineering, as outlined in the individual Project Task Descriptions and Fee Allotments (PTD&FA), including but not limited to the following:

- A. Complete Design Services.
- B. Mechanical Unit Specification/ Title 24 Compliance.
- C. Design Troubleshooting.
- D. As-Built Verifications.

Requests for work not listed above must be contracted under separate agreement.

## 1.0 FEE SCHEDULES

FEE SCHEDULE		
PRIME STAFF: SC ENGINEERS		
NAME	CLASSIFICATION	HOURLY RATE
Justin Dolley, MPE/Project Manager	Project Manager	\$199.00
Frank Shadpour, MPE, CxA, LEED A/Program Manager	Principal	\$289.00
Joseph Kilcoyne, MPE, EPE, CxA /Quality Control Manager	Principal	\$289.00
Jeremy Clifton, MPE, CxA/Mechanical Engineering Lead	Principal	\$289.00
Michelle Shadpour, MPE, CPD/Plumbing Engineering Lead	Project Engineer	\$165.00
TBD	Assoc./Project Executive	\$216.00
TBD	Project Manager	\$199.00
TBD	Project Engineer	\$165.00
TBD	Design Engineer	\$139.00
TBD	Engineering Analyst	\$139.00
TBD	BIM/CADD Manager	\$135.00
TBD	Accounting	\$135.00
TBD	Designer	\$115.00
TBD	Engineering Assistant	\$89.00
TBD	Administrative	\$92.00
SUBCONSULANT STAFF: RTM CONSULTING ENGINEERING		
NAME	CLASSIFICATION	HOURLY RATE
William "Rocky" Tanner, EPE/Electrical Engineering Lead	Principal	\$255.00
TBD	Associate	\$216.00
TBD	Project Manager	\$185.00
TBD	Project Engineer I	\$165.00
TBD	Designer Engineer II	\$160.00
TBD	Design Engineer	\$139.00
TBD	Senior CAD-Designer	\$130.00
TBD	Engineering Technician	\$120.00
TBD	BIM/CAD Designer II	\$105.00
TBD	CAD-Designer	\$100.00
TBD	BIM/CAD Designer I	\$95.00
TBD	Administrative	\$90.00

Expenses are included in the hourly rates above.

June 24, 2025

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Item #6

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**MASTER AGREEMENT FOR POLICY AND SUSTAINABLE  
MATERIALS MANAGEMENT (SMM) PROGRAM IMPLEMENTATION SERVICES  
STEARNS, CONRAD AND SCHMIDT, CONSULTING ENGINEERS, INC.**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of June, 2025, but effective July 1, 2025, by and between the City of Carlsbad, California, a municipal corporation, ("City"), and Stearns, Conrad and Schmidt, Consulting Engineers, Inc., a Virginia corporation ("Contractor").

**RECITALS**

- A. City requires the professional services of a consultant experienced in policy development and Sustainable Materials Management (SMM) program implementation.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor possesses the necessary experience to provide professional services and guidance related to policy development and Sustainable Materials Management (SMM) program implementation.
- D. Contractor has submitted a proposal to the city responsive to Request for Qualifications RFQ25-3437CA and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, City and Contractor agree as follows:

**1. SCOPE OF WORK**

City retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A", which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective for a period of three (3) years from July 1, 2025, through June 30, 2028. The City Manager may amend the Agreement to extend it for two (2) additional one (1) year(s) periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, City needs, and appropriation of funds by the City Council. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by City and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the City Manager or the Division Director



("Director") as authorized by the City Manager. The City Manager or Director will give allowance for documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight on the part of Contractor, or delays caused by City inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed five hundred thousand dollars (\$500,000). Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, City shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for City, the City Manager or Director, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

If the City elects to extend the term of the Master Services Agreement, adjustments to the rate schedule may be permitted. Upon receipt of a written request from the Contractor, the City may consider approving a rate schedule increase. Rate schedule increases will be considered for each anniversary of the Agreement effective date after the initial three-year term. An increase to the rate schedule will be calculated based on the proceeding 12-month percentage change in the Consumer Price Index, San Diego Area, for All Urban Customers (CPI-U), as reported by the Bureau of Labor Statistics or 5.0%, whichever is lower. If the CPI-U is a negative number, then the rate schedule will not be adjusted for that year. The Contractor must submit a request and justification to increase the rate schedule at least sixty days prior to the anniversary of the effective date, assuming the City opt to extend the Master Services Agreement. The justification accompanying the written request should detail the rationale for the requested adjustment, and the requested adjustment amount, supported by relevant documentation (e.g., CPI-U or 5.0%, whichever is less). Approval of rate schedule increase by the City must be documented in an amendment to the Agreement.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California

Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize the Owner's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. The Contractor is required to create a free web-based Procore user account(s) and utilize web-based training / tutorials (as needed) to become familiar with the system. Unless the Engineer approves otherwise, the Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. The Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of the Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that the Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, RFIs, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

## **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of City. Contractor will be under control of City only as to the result to be accomplished, but will consult with City as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of City for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. City will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. City will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify City within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which City may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At the City's election, City may deduct the indemnification amount from any balance owing to Contractor.

**9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

**10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of City. If Contractor subcontracts any of the Services, Contractor will be fully responsible to City for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and City. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by City.

**11. OTHER CONTRACTORS**

The City reserves the right to employ other Contractors in connection with the Services.

**12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by the City), indemnify, and hold harmless the City and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation program is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

**13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current

Best's Key Rating of not less than "A-VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

13.1 Coverages and Limits. Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability (CGL) Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to City's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 The City will be named as an additional insured on Commercial General Liability which shall provide primary coverage to the City.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to City sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to City's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to City.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then City will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by City to obtain or maintain insurance and City may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. City reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

14. **BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

15. **ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

16. **OWNERSHIP OF DOCUMENTS**

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of City. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to City. Contractor will have the right to make one (1) copy of the work product for Contractor's records.

17. **COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in City and Contractor relinquishes all claims to the copyrights in favor of City.

18. **NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of City and on behalf of Contractor under this Agreement are:

For City:

Name	<u>Eleida Felix Yackel</u>
Title	<u>Senior Contract Administrator</u>
Dept	<u>Public Works/ Contract Admin</u>
	<u>CITY OF CARLSBAD</u>
Address	<u>1635 Faraday Ave.</u>
	<u>Carlsbad, CA 92008</u>
Phone	<u>442-339-2767</u>

For Contractor:

Name	<u>Michelle P. Leonard</u>
Title	<u>Senior Vice President</u>
Address	<u>438 S. Marengo Ave.</u>
	<u>Pasadena, CA 91101</u>
Phone	<u>626-322-3823</u>
Email	<u>mleonard@scsengineers.com</u>



Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

**19. GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or City will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, City may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If City decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, City may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by City and all work in progress to City at the address contained in this Agreement. City will make a determination of fact based upon the work product delivered to City and of the percentage of work that Contractor has performed which is usable and of worth to City in having the Agreement completed. Based upon that finding City will

determine the final payment of the Agreement.

City may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to City. In the event of termination of this Agreement by either party and upon request of City, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to City. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. City will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, City will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any Agreement claim submitted to City must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to City, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If City seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon City and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of City, which shall not be unreasonably withheld.

**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the City and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract, and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}



CONTRACTOR  
STERNS, CONRAD AND SCHMIDT,  
CONSULTING ENGINEERS, INC., a Virginia  
corporation

CITY OF CARLSBAD, a municipal corporation of  
the State of California

By: Michelle P. Leonard

By:

(sign here)

Keith Blackburn, Mayor

Michelle Leonard, Senior Vice President

(print name/title)

ATTEST:

SHERRY FREISINGER, City Clerk

By:

By:

(sign here)

Faviola Medina,  
Director of Constituent & Clerk Services

(print name/title)

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

**Group A**

Chairman,  
President, **or**  
Vice-President

**Group B**

Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, City Attorney

BY: Cindie K. McMahon

**EXHIBIT A****SCOPE OF SERVICES AND FEES**

Perform a variety of tasks related to policy development and Sustainable Materials Management (SMM) program implementation, as outlined in the individual Project Task Descriptions and Fee Allotments (PTD&FA), including but not limited to the following:

- A. Compliance with new regulations.
- B. Program and contract implementation.
- C. Enforcement and outreach for new regulations.
- D. Program Regulatory Support/Compliance.
- E. Compliance Training.
- F. Program Evaluations/Assessments.

Requests for work not listed above must be contracted under separate agreement.

**ATTACHMENT B – MASTER SERVICES AGREEMENT RATE SCHEDULE**

Prices valid through Term of Agreement

<b>STAFF</b>			
	<b>Name</b>	<b>Title</b>	<b>Hourly Rate</b>
<b>1.</b>	Michelle P. Leonard	Project Director/Contract Manager	\$384.00
<b>2.</b>	Lauren Romanazzi	Project Director	\$317.00
<b>3.</b>	Erik Martig, CCOM	Project Director	\$317.00
<b>4.</b>	Kelli Farmer, TRUE Advisor	Senior Project Professional	\$199.00
<b>5.</b>	Laura Johnson, CBSM	Project Professional	\$194.00
<b>6.</b>	Fernando Moreno	Project Professional	\$194.00
<b>7.</b>	Lauren Beauban	Project Professional	\$142.00
<b>8.</b>	Brett Wilks	Associate Professional	\$158.00
<b>9.</b>	Graciela Galindo	Technical Professional	\$146.00
<b>10.</b>	Tom Parker, PE	Project Director	\$330.00

<b>SUBCONSULTANTS – Will be added in consultation with City of Carlsbad staff, based on specific task orders.</b>			
	<b>Name/Firm</b>	<b>Title</b>	<b>Hourly Rate</b>
<b>1.</b>			
<b>2.</b>			
<b>3.</b>			
<b>4.</b>			
<b>5.</b>			

<b>EXPENSES</b>			
	<b>DESCRIPTION</b>	<b>COST</b>	<b>% MARKUP</b>
<b>1.</b>	Outside consultants and subcontractors		Actual cost plus a 15 percent administrative fee
<b>2.</b>	Equipment/supplies, and job-related employee travel and subsistence		Actual cost plus a 15 percent administrative fee

**SCS ENGINEERS**

EXPENSES			
	DESCRIPTION	COST	% MARKUP
3.	Charges for SCS field equipment and instruments		Will be in accordance with SCS's Field Equipment Rental Rates Schedule in effect at the time the work is performed
4.	Special situations such as expert court testimony and limited consultation		Hourly rates will be on an individually negotiated basis
5.	Invoices are due and payable upon receipt		<del>Invoices not paid within 30 days are subject to a service charge of 1.5 percent per month on the unpaid balance</del>

**MASTER AGREEMENT FOR SEWER CONDITION ASSESSMENT SERVICES  
DOWNSTREAM SERVICES, INC.**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of June, 2025, but effective July 1, 2025, by and between the City of Carlsbad, California, a municipal corporation, ("City"), and Downstream Services, Inc., a California corporation ("Contractor").

**RECITALS**

- A. The City requires the professional services of a consultant experienced in sewer condition assessment.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. The Contractor possesses the necessary experience to provide professional services and guidance related to sewer condition assessment.
- D. Contractor has submitted a proposal to the city responsive to Request for Qualifications RFQ25-3437CA and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, City and Contractor agree as follows:

**1. SCOPE OF WORK**

City retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A", which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective for a period of three (3) years from July 1, 2025, through June 30, 2028. The City Manager may amend the Agreement to extend it for two (2) additional one (1) year(s) periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, City needs, and appropriation of funds by the City Council. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by City and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the City Manager or the Division Director ("Director") as authorized by the City Manager. The City Manager or Director will give allowance for documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight

on the part of Contractor, or delays caused by City inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed four hundred thousand dollars (\$400,000). Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, City shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for City, the City Manager or Director, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

If the City elects to extend the term of the Master Services Agreement, adjustments to the rate schedule may be permitted. Upon receipt of a written request from the Contractor, the City may consider approving a rate schedule increase. Rate schedule increases will be considered for each anniversary of the Agreement effective date after the initial three-year term. An increase to the rate schedule will be calculated based on the proceeding 12-month percentage change in the Consumer Price Index, San Diego Area, for All Urban Customers (CPI-U), as reported by the Bureau of Labor Statistics or 5.0%, whichever is lower. If the CPI-U is a negative number, then the rate schedule will not be adjusted for that year. The Contractor must submit a request and justification to increase the rate schedule at least sixty days prior to the anniversary of the effective date, assuming the City opt to extend the Master Services Agreement. The justification accompanying the written request should detail the rationale for the requested adjustment, and the requested adjustment amount, supported by relevant documentation (e.g., CPI-U or 5.0%, whichever is less). Approval of rate schedule increase by the City must be documented in an amendment to the Agreement.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in

the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize the Owner's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. The Contractor is required to create a free web-based Procore user account(s) and utilize web-based training / tutorials (as needed) to become familiar with the system. Unless the Engineer approves otherwise, the Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. The Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of the Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that the Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, RFIs, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

## **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of City. Contractor will be under control of City only as to the result to be accomplished, but will consult with City as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of City for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. City will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. City will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify City within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which City may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At the City's election, City may deduct the indemnification amount from any balance owing to Contractor.

**9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

**10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of City. If Contractor subcontracts any of the Services, Contractor will be fully responsible to City for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and City. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by City.

**11. OTHER CONTRACTORS**

The City reserves the right to employ other Contractors in connection with the Services.

**12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by the City), indemnify, and hold harmless the City and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation program is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

**13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current



Best's Key Rating of not less than "A-VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

13.1 Coverages and Limits. Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability (CGL) Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to City's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 The City will be named as an additional insured on Commercial General Liability which shall provide primary coverage to the City.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to City sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to City's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to City.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then City will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by City to obtain or maintain insurance and City may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. City reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

14. **BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

15. **ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

16. **OWNERSHIP OF DOCUMENTS**

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of City. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to City. Contractor will have the right to make one (1) copy of the work product for Contractor's records.

17. **COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in City and Contractor relinquishes all claims to the copyrights in favor of City.

18. **NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of City and on behalf of Contractor under this Agreement are:

For City:

Name	Eleida Felix Yackel
Title	Senior Contract Administrator
Dept	Public Works/ Contract Admin
	CITY OF CARLSBAD
Address	1635 Faraday Ave.
	Carlsbad, CA 92008
Phone	442-339-2767

For Contractor:

Name	Jeff Moore
Title	Project Manager
Address	2855 Progress Place
	Escondido, CA 92029
Phone	760-746-2544
Email	jeffm@downstreamservices.com

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

**19. GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

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In the event of the Contractor's failure to prosecute, deliver, or perform the Services, City may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If City decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, City may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by City and all work in progress to City at the address contained in this Agreement. City will make a determination of fact based upon the work product delivered to City and of the percentage of work that Contractor has performed which is usable and of worth to City in having the Agreement completed. Based upon that finding City will

determine the final payment of the Agreement.

City may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to City. In the event of termination of this Agreement by either party and upon request of City, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to City. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. City will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, City will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any Agreement claim submitted to City must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to City, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If City seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon City and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of City, which shall not be unreasonably withheld.

**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the City and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract, and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}

CONTRACTOR  
Downstream Services, Inc., a California  
corporation

By:



(sign here)

Loren V. Wynne,  
President and Chief Financial Officer

(print name/title)

By:

(sign here)

(print name/title)

CITY OF CARLSBAD, a municipal corporation of  
the State of California

By:

Keith Blackburn, Mayor

ATTEST:

SHERRY FREISINGER, City Clerk

By:

Faviola Medina,  
Director of Constituent & Clerk Services

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

**Group A**

Chairman,  
President, **or**  
Vice-President

**Group B**

Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, City Attorney

BY:

*Cindie K. McMahon*

**EXHIBIT A****SCOPE OF SERVICES AND FEES**

Perform a variety of tasks related to sewer condition assessments, as outlined in the individual Project Task Descriptions and Fee Allotments (PTD&FA), including but not limited to the following:

- A. Conduct inspections and assess sewer gravity mains (6" to 54") or force mains using CCTV (PACP) and a variety of other technologies such as sonar, acoustic, laser. Include option for pre-inspection cleaning of gravity sewer mains.
- B. Conduct inspections and assess city-owned laterals using CCTV (LACP) or other agreed upon inspection methods.
- C. Conduct inspections and assess sewer manholes using technologies such as CCTV (MACP), 3D scanning (ex. CUES Spider).
- D. Provide data, prepare reports and recommendations for rehabilitation.

Requests for work not listed above must be contracted under separate agreement.



2855 Progress Place, Escondido, CA 92029  
Office: (760) 746-2544 | Fax: (760) 746-2667  
Jeff Moore | Direct: (760) 814-9616  
[JeffM@downstreamservices.com](mailto:JeffM@downstreamservices.com)

To:	City of Carlsbad	Date:	12/31/2024			
Attn:	Eleida Felix Yacke	Project Name:	Request for Qualifications Notice MSA for Consultants #RFQ25-3437CA - Bid Item #9 Sewer Condition Assessment			
Address:	5950 El Camino Real Carlsbad, CA 92008	Project Location:	Various locations, Carlsbad, CA			
		Email:	<a href="mailto:Eleida.FelixYackel@carlsbadca.gov">Eleida.FelixYackel@carlsbadca.gov</a>			
ITEM	DESCRIPTION	QTY	UNIT	UNIT PRICE	ITEM TOTAL	
	During Normal Business Hours (8am to 5pm)					
	NASSCO PACP/LACP CCTV Inspections of 6"-54" (Excludes Sonar, Acuostic, Laser Inspections)					
1	CCTV Inspection Truck and Operator	1.0	HR	\$ 227.00	TBD	
2	Laborer	1.0	HR	\$ 154.00	TBD	
3	Laborer Apprentice	1.0	HR	\$ 154.00	TBD	
	NASSCO MACP Level 1 and Level 2 Inspections					
4	Manhole Inspection Truck with Operator	1.0	HR	\$ 227.00	TBD	
5	Laborer	1.0	HR	\$ 154.00	TBD	
6	Laborer Apprentice	1.0	HR	\$ 154.00	TBD	
7	Post Processing MACP Level 2 Per Manhole (includes 3D scan)	1.0	EA	\$ 45.00	TBD	
	Cleaning of 6"-54" Sewer Pipes					
8	Camel Jet/Vacuum Combo Truck	1.0	HR	\$ 310.00	TBD	
9	Mini Pumper Truck 750 Gallon	1.0	HR	\$ 230.00	TBD	
10	Trailer Jetter w/ Pickup Truck	1.0	HR	\$ 207.00	TBD	
11	Pumper Truck 4,000 Gallon	1.0	HR	\$ 239.00	TBD	
12	Water Truck 2,000 Gallon	1.0	HR	\$ 223.00	TBD	
13	Laborer	1.0	HR	\$ 154.00	TBD	
14	Laborer Apprentice	1.0	HR	\$ 154.00	TBD	
15	Specialty Cleaning Nozzle (Grease Cutter, Chain Flail, etc.)	1.0	HR	\$ 5.00	TBD	
16	Sampling, Testing and Disposal (quoted per project)	1.0	LS	TBD	TBD	
17	Materials (quoted per project) (i.e. Temporary Construction Water Meter and Water Usage Fees)	1.0	LS	TBD	TBD	
18	Roll Off Truck	1.0	HR	\$ 224.00	TBD	
19	Transportable Treatment Unit 10-15 Cubic Yard	1.0	DAY	\$ 66.00	TBD	
20	Transportable Treatment Unit 20 Cubic Yard	1.0	DAY	\$ 74.00	TBD	
	Additional As-Need Items:					
21	Prevailing Wage Contract Administration Fee	1.0	LS	\$ 500.00	TBD	
22	Offsite Project Manager	1.0	HR	\$ 164.00	TBD	
23	Offsite Systems/QAQC Analyst	1.0	HR	\$ 131.00	TBD	
24	Onsite Safety Manager	1.0	HR	\$ 164.00	TBD	
25	Pickup Truck	1.0	HR	\$ 23.00	TBD	
26	Utility Truck	1.0	HR	\$ 45.00	TBD	
27	Traffic Control Truck (includes arrow board, signs and cones)	1.0	HR	\$ 191.00	TBD	
28	Changeable Message Board	1.0	DAY	\$ 263.00	TBD	
29	Flashing Arrow Board	1.0	DAY	\$ 147.00	TBD	
	After Hours, Weekends and Holidays					
	NASSCO PACP/LACP CCTV Inspections of 6"-54" (Excludes Sonar, Acuostic, Laser Inspections)					
30	CCTV Inspection Truck and Operator	1.0	HR	\$ 306.00	TBD	
31	Laborer	1.0	HR	\$ 208.00	TBD	
32	Laborer Apprentice	1.0	HR		TBD	
	NASSCO MACP Level 1 and Level 2 Inspections					
33	Manhole Inspection Truck with Operator	1.0	HR	\$ 306.00	TBD	
34	Laborer	1.0	HR	\$ 208.00	TBD	
35	Laborer Apprentice	1.0	HR	\$ 208.00	TBD	
36	Post Processing MACP Level 2 Per Manhole (includes 3D scan)	1.0	EA	\$ 45.00	TBD	
	Cleaning of 6"-54" Sewer Pipes					
37	Camel Jet/Vacuum Combo Truck	1.0	HR	\$ 419.00	TBD	
38	Mini Pumper Truck 750 Gallon	1.0	HR	\$ 311.00	TBD	
39	Trailer Jetter w/ Pickup Truck	1.0	HR	\$ 279.00	TBD	
40	Pumper Truck 4,000 Gallon	1.0	HR	\$ 323.00	TBD	
41	Water Truck 2,000 Gallon	1.0	HR	\$ 301.00	TBD	
42	Laborer	1.0	HR	\$ 208.00	TBD	
43	Laborer Apprentice	1.0	HR	\$ 208.00	TBD	
44	Specialty Cleaning Nozzle (Grease Cutter, Chain Flail, etc.)	1.0	HR	\$ 5.00	TBD	
45	Sampling, Testing and Disposal (quoted per project)	1.0	LS	TBD	TBD	
46	Materials (quoted per project) (i.e. Temporary Construction Water Meter and Water Usage Fees)	1.0	LS	TBD	TBD	
47	Roll Off Truck	1.0	HR	\$ 302.00	TBD	
48	Transportable Treatment Unit 10-15 Cubic Yard	1.0	DAY	\$ 66.00	TBD	
49	Transportable Treatment Unit 20 Cubic Yard	1.0	DAY	\$ 74.00	TBD	
	Double Time					
	NASSCO PACP/LACP CCTV Inspections of 6"-54" (Excludes Sonar, Acuostic, Laser Inspections)					
50	CCTV Inspection Truck and Operator	1.0	HR	\$ 341.00	TBD	
51	Laborer	1.0	HR	\$ 231.00	TBD	
52	Laborer Apprentice	1.0	HR	\$ 231.00	TBD	





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NASSCO MACP Level 1 and Level 2 Inspections					
53	Manhole Inspection Truck with Operator	1.0	HR	\$ 341.00	TBD
54	Laborer	1.0	HR	\$ 231.00	TBD
55	Laborer Apprentice	1.0	HR	\$ 231.00	TBD
Cleaning of 6"-54" Sewer Pipes					
56	Camel Jet/Vacuum Combo Truck	1.0	HR	\$ 465.00	TBD
57	Mini Pumper Truck 750 Gallon	1.0	HR	\$ 345.00	TBD
58	Trailer Jetter w/ Pickup Truck	1.0	HR	\$ 311.00	TBD
59	Pumper Truck 4,000 Gallon	1.0	HR	\$ 359.00	TBD
60	Water Truck 2,000 Gallon	1.0	HR	\$ 335.00	TBD
61	Laborer	1.0	HR	\$ 231.00	TBD
62	Laborer Apprentice	1.0	HR	\$ 231.00	TBD
63	Roll Off Truck	1.0	HR	\$ 336.00	TBD
Additional As-Need Items:					
64	Offsite Project Manager	1.0	HR	\$ 246.00	TBD
65	Offsite Systems/QAQC Analyst	1.0	HR	\$ 197.00	TBD
66	Onsite Safety Manager	1.0	HR	\$ 246.00	TBD
67	Traffic Control Truck (includes arrow board, signs and cones)	1.0	HR	\$ 287.00	TBD
Notes:					
* All hourly rates are subject to a 4hr. minimum per callout					
TOTAL ESTIMATED COST					TBD

**MASTER AGREEMENT FOR SEWER CONDITION ASSESSMENT SERVICES  
NATIONAL PLANT SERVICES, INC.**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of June, 2025, but effective July 1, 2025, by and between the City of Carlsbad, California, a municipal corporation, ("City"), and National Plant Services, Inc., an Illinois corporation ("Contractor").

**RECITALS**

- A. The City requires the professional services of a consultant experienced in sewer condition assessment.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. The Contractor possesses the necessary experience to provide professional services and guidance related to sewer condition assessment.
- D. Contractor has submitted a proposal to the city responsive to Request for Qualifications RFQ25-3437CA and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, City and Contractor agree as follows:

**1. SCOPE OF WORK**

City retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A", which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective for a period of three (3) years from July 1, 2025, through June 30, 2028. The City Manager may amend the Agreement to extend it for two (2) additional one (1) year(s) periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, City needs, and appropriation of funds by the City Council. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by City and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the City Manager or the Division Director ("Director") as authorized by the City Manager. The City Manager or Director will give allowance for documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight

on the part of Contractor, or delays caused by City inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed four hundred thousand dollars (\$400,000). Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, City shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for City, the City Manager or Director, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

If the City elects to extend the term of the Master Services Agreement, adjustments to the rate schedule may be permitted. Upon receipt of a written request from the Contractor, the City may consider approving a rate schedule increase. Rate schedule increases will be considered for each anniversary of the Agreement effective date after the initial three-year term. An increase to the rate schedule will be calculated based on the proceeding 12-month percentage change in the Consumer Price Index, San Diego Area, for All Urban Customers (CPI-U), as reported by the Bureau of Labor Statistics or 5.0%, whichever is lower. If the CPI-U is a negative number, then the rate schedule will not be adjusted for that year. The Contractor must submit a request and justification to increase the rate schedule at least sixty days prior to the anniversary of the effective date, assuming the City opt to extend the Master Services Agreement. The justification accompanying the written request should detail the rationale for the requested adjustment, and the requested adjustment amount, supported by relevant documentation (e.g., CPI-U or 5.0%, whichever is less). Approval of rate schedule increase by the City must be documented in an amendment to the Agreement.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in

the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize the Owner's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. The Contractor is required to create a free web-based Procore user account(s) and utilize web-based training / tutorials (as needed) to become familiar with the system. Unless the Engineer approves otherwise, the Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. The Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of the Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that the Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, RFIs, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

## **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of City. Contractor will be under control of City only as to the result to be accomplished, but will consult with City as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of City for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. City will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. City will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify City within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which City may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At the City's election, City may deduct the indemnification amount from any balance owing to Contractor.

**9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

**10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of City. If Contractor subcontracts any of the Services, Contractor will be fully responsible to City for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and City. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by City.

**11. OTHER CONTRACTORS**

The City reserves the right to employ other Contractors in connection with the Services.

**12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by the City), indemnify, and hold harmless the City and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation program is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

**13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current

Best's Key Rating of not less than "A-VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

13.1 Coverages and Limits. Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability (CGL) Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to City's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 The City will be named as an additional insured on Commercial General Liability which shall provide primary coverage to the City.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to City sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to City's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to City.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then City will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by City to obtain or maintain insurance and City may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. City reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

14. **BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

15. **ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

16. **OWNERSHIP OF DOCUMENTS**

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of City. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to City. Contractor will have the right to make one (1) copy of the work product for Contractor's records.

17. **COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in City and Contractor relinquishes all claims to the copyrights in favor of City.

18. **NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of City and on behalf of Contractor under this Agreement are:

For City:

Name	Eleida Felix Yackel
Title	Senior Contract Administrator
Dept	Public Works/ Contract Admin
	CITY OF CARLSBAD
Address	1635 Faraday Ave.
	Carlsbad, CA 92008
Phone	442-339-2767

For Contractor:

Name	DANIEL SOLANO
Title	PRESIDENT
Address	1461 HARBOR AVE
	LONG BEACH CA. 90813
Phone	562-436-7600
Email	daniel@nationalplant.com

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

**19. GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or City will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, City may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If City decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, City may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by City and all work in progress to City at the address contained in this Agreement. City will make a determination of fact based upon the work product delivered to City and of the percentage of work that Contractor has performed which is usable and of worth to City in having the Agreement completed. Based upon that finding City will



determine the final payment of the Agreement.

City may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to City. In the event of termination of this Agreement by either party and upon request of City, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to City. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. City will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, City will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any Agreement claim submitted to City must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to City, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If City seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon City and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of City, which shall not be unreasonably withheld.

**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the City and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract, and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}

CONTRACTOR  
National Plant Services, Inc., an Illinois  
corporation

CITY OF CARLSBAD, a municipal  
corporation of the State of California

By: Daniel Solano, President  
(sign here)

By: \_\_\_\_\_  
Keith Blackburn, Mayor

Daniel Solano, President  
(print name/title)

ATTEST:  
SHERRY FREISINGER, City Clerk

By: [Signature]  
(sign here)

By: \_\_\_\_\_  
Faviola Medina,  
Director of Constituent & Clerk Services

Ginna Hatcher , Secretary  
(print name/title)

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

**Group A**  
Chairman,  
President, **or**  
Vice-President

**Group B**  
Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, City Attorney

BY: Cindie K. McMahon

**EXHIBIT A****SCOPE OF SERVICES AND FEES**

Perform a variety of tasks related to sewer condition assessments, as outlined in the individual Project Task Descriptions and Fee Allotments (PTD&FA), including but not limited to the following:

- A. Conduct inspections and assess sewer gravity mains (6" to 54") or force mains using CCTV (PACP) and a variety of other technologies such as sonar, acoustic, laser. Include option for pre-inspection cleaning of gravity sewer mains.
- B. Conduct inspections and assess city-owned laterals using CCTV (LACP) or other agreed upon inspection methods.
- C. Conduct inspections and assess sewer manholes using technologies such as CCTV (MACP), 3D scanning (ex. CUES Spider).
- D. Provide data, prepare reports and recommendations for rehabilitation.

Requests for work not listed above must be contracted under separate agreement.

## ATTACHMENT B –MASTER SERVICES AGREEMENT RATE SCHEDULE NATIONAL PLANT SERVICES, INC.

Prices valid through Term of Agreement

<b><u>STAFF AND EQUIPMENT</u></b>		<b><u>TITLE</u></b>	<b><u>FY 26 HOURLY RATE</u></b>	<b><u>FY 27 HOURLY RATE</u></b>	<b><u>FY 28 HOURLY RATE</u></b>	<b><u>Mobilization Fee Each Work Order (6 hrs RT)</u></b>	<b><u>Daily Crew Out of Town Fees (for multiple day projects where crew stay local)</u></b>
	<b><u>NAME</u></b>						
1.	Michelle Beason	Principal Engineer, Project Manager	\$200.00	\$210.00	\$220.00		
2.	Daniel Solano	President	\$200.00	\$210.00	\$220.00		
3.	Paola Guerrero/Jasmin Villalobos	QAQC Specialist	\$80.00	\$90.00	\$100.00		
4.	Esther Amoding & John Figueroa	Project Engineers	\$140.00	\$150.00	\$160.00		
5.	Jorge Salas	Superintendent	\$170.00	\$180.00	\$190.00		\$200.00
6.	Ferdy Moreno, Willy Chavez, Julio Avila, + more PACP certified operators available	CCTV/MSI Operator	\$140.00	\$150.00	\$160.00	\$840.00	\$200.00
7.	CCTV Truck	CCTV Truck	\$160.00	\$165.00	\$170.00	\$960.00	
8.	Multi-Sensor Inspection (MSI) Truck	MSI Truck	\$210.00	\$220.00	\$230.00	\$1,260.00	
9.	Daniel Rios, Jose Bedoja, + other Cleaning Truck Operator	Cleaning operator	\$155.00	\$160.00	\$165.00	\$930.00	\$200.00
10.	Cleaning Truck	Cleaning Truck	\$160.00	\$165.00	\$170.00	\$960.00	
11.	Field Technician/Laborer	Field Technician	\$125.00	\$130.00	\$135.00	\$750.00	\$200.00
12.	Pickup Truck	Pickup	\$30.00	\$35.00	\$40.00	\$180.00	
13.	Winch	Winch	\$150.00	\$155.00	\$160.00	\$900.00	

June 24, 2025

<b><u>SUB-CONSULTANTS</u></b>		
	<b><u>NAME/FIRM</u></b>	<b><u>TITLE</u></b>
1.	City Rise Safety	Traffic Control Subcontractor
2.	Ponder Environmental	Sewer waste disposal contractor
		<b><u>HOURLY RATE</u></b>
		See attached rate sheet
		See attached rate sheet

<b><u>EXPENSES</u></b>		
	<b><u>DESCRIPTION</u></b>	<b><u>COST</u></b>
1.	All Subcontractor Expenses	Cost TBD
2.	Copy services	\$0.15 / page
3.	Permits	Cost TBD
4.	Cleaning Water	Cost TBD
5.	Multi-Sensor Processing and Reporting	\$3.00/LF
		<b><u>% MARKUP, IF ANY</u></b>
		10% (Cost+10%)
		None
		10% (Cost+10%)
		10% (Cost + 10%)
		None

Item #6

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ESTIMATE / WORK AUTHORIZATION

Customer:	National Plant Services, Inc.	Date:	4/3/2024
Address:	2159 National Ave. Hayward, CA 94545	From:	Iman Ghanem
Contact:	Michelle D. Beason	Estimate#	24-065
Phone:		Phone	707-748-7775
Fax:		Return Fax	707-748-7776
Cell:	925-262-7366	Cell:	707-333-1530
Email:	<a href="mailto:mbeason@nationalplant.com">mbeason@nationalplant.com</a>	Email:	<a href="mailto:iman.ghanem@ponder-env.com">iman.ghanem@ponder-env.com</a>

**Scope of Work: Ponder Environmental Services (PES) is providing the following**  
**Provide personnel and equipment for various jobs with National Plant**

**Estimate is based on prevailing wage time and material**

**All rates are portal to portal and travel will be charged on a time and material rate.**

**Subsistence \$275.00 per man (rates may vary depending on location), per day for meals and lodging.**

<u>Item No.</u>	<u>Work Description</u>	<u>Estimated Price</u>	<u>Quantity</u>	<u>Extended Price</u>
001	Provide Double Bin Truck for Bin work per hour	\$ 75.00	TBD	
002	Provide Single Bin Truck for Bin work per hour	\$ 75.00	TBD	
003	Provide Winch Truck for Frac Tanks Delivery/Pick up per hour	\$ 85.00	TBD	
004	Provide Truck Driver ST per hour	\$ 120.00	TBD	
005	Provide Truck Driver OT per hour	\$ 150.00	TBD	
006	Provide Truck Driver DT per hour	\$ 180.00	TBD	
007	Waste Connections: Disposal of Non haz Solid - Direct landfill Burial per ton	\$ 86.00	TBD	
008	Waste Connections: Disposal of Non haz Liquids for Solidification per ton	\$ 188.00	TBD	
009	Bin Washout at Waste Connection per each	\$ 190.00	TBD	
010	Enviro-Pac: Disposal of non haz water w/ little Sludge per load	\$ 1,450.00	TBD	
011	Enviro-Pac: Washout per load	\$ 250.00	TBD	
012	Waste Profiling Fee per each	\$ 125.00	TBD	
013	Daily Bin Rental : 8 yard Bin per day	\$ 30.00	TBD	
014	Daily Bin Rental : 20 yard Bin per day	\$ 24.00	TBD	
015	Daily Bin Rental: 40 yard open top bin per day	\$ 30.00	TBD	
016	25' Containment Berm Daily Rate	\$ 25.00	TBD	
017	50' Containment Berm per day	\$ 32.00	TBD	
018	Bin Liner for 8 or 20 yard bin per each	\$ 55.00	TBD	
019	21K Frac Tank Rental w/ Berm per day	\$ 77.00	TBD	
020	10K Frac Tank Rental w/ Berm per day	\$ 74.00	TBD	

Ponder Environmental Services Inc.

P.O. Box 1427

Benicia, CA 94510

Office (827) 262-5265

Item #6

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021	Vac Truck Washout at Oakland facility per each	\$ 1,050.00	TBD	
022	Bridge Fees on 5Axle Trucks per each	\$ 28.00	TBD	
023	Bridge Fees on 3Axle Trucks per each	\$ 18.00	TBD	
024	Fuel Surcharge over all powered equipments	30%		
025	Recovery Fee applied Over Invoice	5%	TBD	
			<b>Total Estimate</b>	TBD



The Customer acknowledges that the estimated cost is based on a preliminary appraisal based on the information provided to the Ponder Environmental representative and that the amount invoiced by Ponder Environmental will be based on labor and materials actually expended in performing the Scope of Work. Any changes in the Scope of Work will be billed in addition to the estimated cost specified above.

**Exclusions**

Ponder Environmental Services Inc. accepts no responsibility for the following items:

1. Permits from county or state.
2. Delays not caused by PES.

**Terms & Conditions:**

1. Customer to provide
2. Rates are based on prevailing wage
3. All Material is assumed Non-Hazardous
4. All locations of work must be accessible at all times during this project – conditions limiting access or egress on site will result in additional costs.
5. Delays not within the control of P.E.S will be documented at billed at T&M rates or per signed change order.
6. Water for Pressure Washing or for construction needs will be provided by the customer.
7. The site must be accessible for 65 ft. trucks.
8. The estimate is valid for 30 days.
9. If paid by credit card, 4% will be added to the total of the invoice.

**Proprietary Notice:**

This submittal contains information that is confidential and proprietary to Ponder Environmental Services, Inc. (PES). PES requests that this information not be disclosed to any person outside the Client's staff.

**Equipment Rates:**

1. Equipment rates do not include labor rates, unless specifically stated in the price list.
2. Equipment rates do not include applicable taxes or government fees.
3. All charges are portal-to-portal.
4. Shifts are eight (8) hours unless otherwise specified

**Equipment Policies:**

1. PES personnel will operate all PES equipment.
2. Bins or tanks provided by PES may only be transported by PES equipment.
3. The customer is responsible to pay repair or replacement costs if damage occurs while bins or tanks are in their use, caused by the customer's employee or contractor, at the disposal facility, or caused by customer's product.
4. If temporary storage tanks or bins are used, they will need to be cleaned to remove all oil, soil, drilling mud, silt, etc. PES will determine final pricing once the condition of the used tanks is known.
5. Air Movers: Highly abrasive, corrosive, or contaminated service which causes rapid or excessive wear or deterioration of hose, pipe and filter bags will result in additional charges for replacement of these items at PES' rates.
6. All vacuum trucks tanks transporting Hazardous Material/Waste will be certified cleaned after each job to protect customer from any cross contamination from other projects.
7. PES' commercial drivers will perform a minimum of a .5-hour DOT pre-trip and .5-hour DOT post trip each day which is billed at the hourly rate.
8. Demurrage- after 1 hour loading or 1 hour unloading (will be billed in ¼ hour increments).
9. All equipment is subject to a Fuel Surcharge.

**Labor Policies:**

1. Straight time is charged for the first eight (8) hours scheduled Monday - Friday, unless otherwise specified.
2. Overtime is charged after the first eight (8) hours and up to twelve (12) hours Monday - Friday and for the first twelve (12) hours on Saturdays.
3. Double time is charged after twelve (12) hours Monday - Saturday and for all hours on Sundays and on holidays.
4. PES billed holidays are New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the Friday after Thanksgiving Day, Christmas Eve, Christmas Day or on the observed day.
5. Shifts are eight (8) hours unless otherwise specified.
6. All charges are portal-to-portal.
7. Labor rates do not include personal protective equipment unless otherwise stated in the price list.
8. Labor rates do not include travel expenses unless otherwise stated in the price list.
9. Labor policies do not apply to Emergency Response projects, see ER Rate Sheet for terms.

**Waste Policies:**

1. The Customer and/or the generator (owner) owns any and all waste from cradle to grave and PES assumes no liability for any and all waste generated or disposed.
2. Prior to the time of shipment and/or loading, Customer's authorized representative shall sign a Waste Profile sheet with approval by a disposal facility in advance of scheduling the Services. Customer shall also sign waste shipping documents at the time of shipment (prior to loading).
3. If Client conducts the analytical then client is to provide PES, all lab analytical prior to anything being transported off site.
4. Customer's drums/totes must not be leaking or damaged.
5. Customer's drums/totes must be transportable.
6. If generators container starts to leak while in transport, generator authorizes PES, to over pack the leaking container and minimize any spilled material. PES will notify the generator within 24 hours of discovering the leaking container. Disposal for cleaned up material, manifests, profiles, supplies and labor may apply.
7. Disposal of Generators waste must be accepted at the receiving facility as profiled. If waste received is fully rejected or waste is non-conforming to the profile, generator agrees to additional surcharges associated with the rejection or non-conforming waste.
8. The actual volume of waste materials may vary from estimate and will be billed accordingly.
9. All contaminated PPE will stay on-site if not included in the estimate.

**Rental Equipment and Labor:**

If not listed in the items pricing above all rental equipment, materials, subcontractors, vendors, and consumables will be charged at cost plus a twenty percent (20%) administrative fee.

**Fuel Surcharge:**

A fuel surcharge will be applied on the hours of equipment operation portion of your invoice only. The fuel surcharge will be based on the weekly average price of fuel, as determined by the federal government each week as published at <https://www.eia.gov/petroleum/gasdiesel/>

**Payment Terms:**

Upon approved Credit Application, payment terms are net 30 days from the date of the invoice.

Payment terms for Emergency Response projects will require an upfront deposit and payments are due upon receipt.

All payments received by credit card will be subject to a 4% convenience fee.

In the event of a default, Customer agrees to pay all collection costs incurred by the company to collect.

Customer's outstanding balance, including court cost and attorney's fees, interest at 18% per annum will be added to balances over 30 days past due.

**Delays:**

Delays not attributable to PES and/or changes in job scope are charged at the published rates.

**Miscellaneous Items and Charges:**

From time to time, it is necessary to provide services and equipment that are not included in this price schedule. Miscellaneous items not included in this price schedule will appear as part of an estimate and will be in effect only for the duration of the estimate

**Decontamination:**

Due to State and Federal requirements, our equipment: must be de-contaminated after every customer or waste stream usage. This may be performed at the customer location or an off-site facility. If performed on-site, the charges will be per our time and material rate. If we must go off-site, the charges will be a cost plus a twenty percent (20%) administrative fee, in addition to our time and material rate.

**Safety:**

Cleaning of equipment and material owned and used by PES is considered to be an integral part of each project and will be done on the jobsite. Disposal of contaminated material, if any, is the responsibility of the customer. Any assistance required by the customer and provided by PES in arranging for transport and/or disposal of contaminated materials is to be considered will be charged to the customer at cost plus a fifteen percent (20%) administrative fee. Any such assistance does not represent an assumption of responsibility or liability for proper transportation or disposal of such materials by PES.

It is the responsibility of the customer to advise PES of any materials or conditions in or around the vessels or work area that might constitute a hazard to personnel or equipment. This responsibility includes providing SDS information on a timely basis.

Customarily, PES installs ladders in vessels in order to allow PES personnel to safely enter and exit the vessel. The ladders are intended for PES personnel use only. In the event the customer uses and/or allows other contract personnel to use the ladders, the customer must accept liability for those activities.

The customer is to provide all necessary utilities, sanitary and wash facilities, inert gas and approved eating and break areas. This is not to be construed to mean that special buildings are required.

**Approval and Acceptance:**

Sincerely,  
Iman Ghanem  
Client Relations Representative  
Ponder Environmental Services, Inc.

Date \_\_\_\_\_

PO or Job Number

Serving all of California

PSA25-3756CA



Main Office: 44800 Industrial Blvd., Fremont, CA 94538

Quote #: JH24-1030

Customer: National Plant

Sr Estimator

Contact: Corey

Joey Hanna

Phone/Email: 562-754-8787

925-209-1186

Quote Info: Crew rates for Carlsbad

12/30/2024 Page 1 of 3

SC2.1A24

Contractor State License Board (CSLB) # 1067575 (WBE) #14110017 (Supplier Clearing House) DIR #1000623333

Description (1/1/25-12/31/25)	Weekday/Standard	Saturday/OT	Sunday/Premium
2 Techs 1 truck 4hrshift	\$1,095.00	\$1,540.00	\$2,046.00
2 Techs 1 truck 8hr shift	\$1,825.00	\$2,567.00	\$3,410.00
2 Techs 1 truck 10hr shift	\$2,382.00	\$3,124.00	\$3,966.00
1 Tech 1 truck 4hr shift	\$758.00	\$1,006.00	\$1,313.00
1 Tech 1 truck 8hr shift	\$1,264.00	\$1,676.00	\$2,188.00
1 Tech 1 truck 10hr shift	\$1,542.00	\$1,954.00	\$2,466.00

Fixed Rate if client wants consistent pricing for the duration of the project

Description (1/1/26-12/31/26)	Weekday/Standard	Saturday/OT	Sunday/Premium
2 Techs 1 truck 4hrshift	\$1,125.00	\$1,582.00	\$2,102.00
2 Techs 1 truck 8hr shift	\$1,875.00	\$2,637.00	\$3,503.00
2 Techs 1 truck 10hr shift	\$2,447.00	\$3,209.00	\$4,074.00
1 Tech 1 truck 4hr shift	\$779.00	\$1,034.00	\$1,349.00
1 Tech 1 truck 8hr shift	\$1,299.00	\$1,722.00	\$2,248.00
1 Tech 1 truck 10hr shift	\$1,584.00	\$2,007.00	\$2,533.00

Signature and or email acceptance also confirms compliance with the terms and conditions  
I acknowledge that I have read the terms and conditions on the last page of this agreement

Name: \_\_\_\_\_

Company: \_\_\_\_\_

Title: \_\_\_\_\_

PO #: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**Note:**

Labor rates includes mobilization costs. Crews will be billed for all time on site.

Each truck is equipped with standard MUTCD signage, and can tow an arrow board. Standard crew size is 2 Techs 1 Truck.

Cancellation notifications made within 12 hours of start time will be billed at the 4hr minimum.

Crews working 0-4 hours will be billed at a 4-hour minimum. Crews working 4-8 hours will be billed at an 8-hour minimum.

Overtime rate per technician per hour is \$139 per Weekday and Saturday, \$186 per Sunday/Holiday

City Rise will need advance notice prior to job starting to make sure crews are available. Item #6 Page 463 of 1064

June 24, 2025

Quote #: JH24-1030

PSA25-3756CA  
Page 2 of 3

Description (1/1/27-12/31/27)	Weekday/Standard	Saturday/OT	Sunday/Premium
2 Techs 1 truck 4hrshift	\$1,155.00	\$1,624.00	\$2,158.00
2 Techs 1 truck 8hr shift	\$1,925.00	\$2,707.00	\$3,596.00
2 Techs 1 truck 10hr shift	\$2,512.00	\$3,295.00	\$4,182.00
1 Tech 1 truck 4hr shift	\$800.00	\$1,062.00	\$1,385.00
1 Tech 1 truck 8hr shift	\$1,334.00	\$1,768.00	\$2,308.00
1 Tech 1 truck 10hr shift	\$1,626.00	\$2,061.00	\$2,601.00

Additional Equipment and Services			
Item	Quantity	Unit \$	Extended \$
<b>Traffic Control Plan rates</b> (lead times may vary contact TCP for ETA)			
Standard Traffic Control Plan (3-5 business day PDF delivery), per sheet	0	\$250.00	\$0.00
Rush Traffic Control Plan (1-2 business day PDF delivery), per sheet	0	\$395.00	\$0.00
Engineer stamped Traffic Control Plans (3-5 business days), per sheet	0	\$500.00	\$0.00
Rush Engineer stamped Traffic Control Plans (1-2 business days) per sheet	0	\$750.00	\$0.00
<b>Rental items</b>			
Arrow Board/FAS, rental per day, Each*	0	\$80.00	\$0.00
Arrow Board/FAS, rental per week, Each*	0	\$255.00	\$0.00
Arrow Board/FAS, rental per month, Each*	0	\$520.00	\$0.00
PCMS/Message Board, rental per day, Each*	0	\$230.00	\$0.00
PCMS/Message Board, rental per week, Each*	0	\$575.00	\$0.00
PCMS/Message Board, rental per month, Each*	0	\$1,440.00	\$0.00
Type I barricade, rental per day, Each	0	\$1.00	\$0.00
Type I barricade, rental per week, Each	0	\$6.00	\$0.00
Type I barricade, rental per month, Each	0	\$12.00	\$0.00
Type III barricade, rental per day, Each	0	\$3.00	\$0.00
Type III barricade, rental per week, Each	0	\$10.00	\$0.00
Type III barricade, rental per month, Each	0	\$25.00	\$0.00
*Towable items may require additional truck or delivery	<b>Rental/Sale estimated Total</b>		\$0.00

**City Rise Safety****Terms and Conditions**PSA25-3756CA  
**Page 3 of 3****Traffic Control Services**

1. A daily minimum charge (4Hr Rate) will be applied to all jobs. Cancellations less than two hours of scheduled start time will incur the daily minimum charge (4Hr Rate). Cancellation notices must be provided in writing.
2. Projects worked more than 4 hours but less than 8, will be billed at the applicable 8-hour day rate.
3. Over-time rates will be billed for work M-F after 8 hours but under 13 hours, and all day on Saturdays. Double-time rates will be billed for work after the 12th hour and all day on Sundays & Holidays.
4. Traffic Control Crews are billed for all time onsite, including mobilization/demobilization and travel times to multiple work locations, if applicable.
5. Travel exceeding 50 miles or two hours' drive time (from nearest City Rise location) will be subject to additional travel fees. Excess travel may require an additional quote for per diem rates. Anything past 50 miles is subject to a \$3.95 per mile fee.
6. Standard traffic control is a Traffic Control Truck equipped with standard MUTCD signage, and one Arrow Board. Additional towable will be an additional charge.
7. Any project quoted prior to approved traffic control plans, or when scope of work changes has occurred, may be subject to revisions. Traffic control plans will be provided to City Rise at time of scheduling a traffic control crew.
8. For projects involving a high rate of speed or limited visibility additional trucks/equipment may be required for crew safety. Additional fees may apply.
9. City Rise Safety reserves the rights to adjust rates due to delayed start dates and/or changes in duration of project.
10. Client is responsible for all fees regardless if project is in progress and canceled, including but not limited to subcontractor fees.
11. Client will have an authorized representative onsite to approve traffic control personnel work time.
12. Quote is valid for 30 days from submitted date. Quote to be signed and returned prior to the start of work. Scheduling of crews or the ordering of materials is considered acceptance of rates and terms provided.

**Sales & Rentals:**

13. Client must have a signed Master Rental Agreement on file with City Rise Safety before rentals can be released.
14. Delivery fees apply to all equipment based on type of location.
15. If the city/agency requires specialty no parking signs or equipment additional fees may apply.
16. A 48-hour notice is required for deliveries, rentals or installations.
17. Rental estimates and final billing may vary based upon the nature and duration of the Contractors work.
18. Contractor shall be liable for any and all lost, stolen, or damaged rental equipment.
19. Delivery fees will apply for any additional equipment required or requested.
20. Sales of specialty created signs/materials are final and non-refundable and are due in full at time of order

**Plans & Permits**

21. Caltrans encroachment permits may take up to 60 days. Once approved, City Rise Safety can submit the LCS Request. Client to notify City Rise Safety a minimum of 15 business days prior to job start date to submit the LCS Request to avoid delay.
22. Plans and permits will start once client has been approved for credit or once payment has been received. Please ask about credit card payment options.
23. Permit applications will begin once all documentation and information are received from the client.
24. City Rise Safety offers 2 free revisions for traffic control plans. For scope change, work zone changes, or additional sheets additional fees may apply.
25. The client will be billed for all services rendered prior to an order cancellation.
26. Permit payments including refundable deposits and/or bonds are the responsibility of the client to be paid directly to the agency.
27. When City Rise Safety is requested to pay the Agency Fees on behalf of the client, a 10% service charge will be added to the total cost of the permit fees.
28. Refundable deposits or Bonds required by Agencies are the responsibility of the client.

**Invoicing T&C:**

29. Payment terms are Net 30 days from date of invoice.
30. City Rise Safety shall not accept any discounts or charges after 2 weeks of the invoice issuance.
31. City Rise Safety shall be paid an annual finance charge of 10% for all late payments.
32. Client agrees to reimburse City Rise Safety for any and all collections costs incurred by City Rise Safety, plus a 10% administration fee.
33. Payments made by Credit Card in excess of \$5000 will incur a credit card processing fee.
34. City Rise Safety does not accept paid-when-paid or retention payment terms.
35. Bonding requirements must be provided at the time of Estimation request. City Rise reserves the right to deny bonding requests made after Estimation has been provided.

## MASTER AGREEMENT FOR STORM WATER ASSET MANAGEMENT GLENN A. RICK ENGINEERING AND DEVELOPMENT CO.

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of June, 2025, but effective July 1, 2025, by and between the City of Carlsbad, California, a municipal corporation, ("City"), and Glenn A. Rick Engineering and Development Co., a California corporation ("Contractor").

### RECITALS

- A. City requires the professional services of a consultant experienced in storm water asset management.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor possesses the necessary experience to provide professional services and guidance related to storm water asset management.
- D. Contractor has submitted a proposal to the city responsive to Request for Qualifications RFQ25-3437CA and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, City and Contractor agree as follows:

### **1. SCOPE OF WORK**

City retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A", which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

### **2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

### **3. TERM**

The term of this Agreement will be effective for a period of three (3) years from July 1, 2025, through June 30, 2028. The City Manager may amend the Agreement to extend it for two (2) additional one (1) year(s) periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, City needs, and appropriation of funds by the City Council. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

### **4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by City and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the City Manager or the Division Director ("Director") as authorized by the City Manager. The City Manager or Director will give allowance for documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight



on the part of Contractor, or delays caused by City inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed four hundred thousand dollars (\$400,000). Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, City shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for City, the City Manager or Director, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

If the City elects to extend the term of the Master Services Agreement, adjustments to the rate schedule may be permitted. Upon receipt of a written request from the Contractor, the City may consider approving a rate schedule increase. Rate schedule increases will be considered for each anniversary of the Agreement effective date after the initial three-year term. An increase to the rate schedule will be calculated based on the proceeding 12-month percentage change in the Consumer Price Index, San Diego Area, for All Urban Customers (CPI-U), as reported by the Bureau of Labor Statistics or 5.0%, whichever is lower. If the CPI-U is a negative number, then the rate schedule will not be adjusted for that year. The Contractor must submit a request and justification to increase the rate schedule at least sixty days prior to the anniversary of the effective date, assuming the City opt to extend the Master Services Agreement. The justification accompanying the written request should detail the rationale for the requested adjustment, and the requested adjustment amount, supported by relevant documentation (e.g., CPI-U or 5.0%, whichever is less). Approval of rate schedule increase by the City must be documented in an amendment to the Agreement.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work unless currently registered and qualified to perform

public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize the Owner's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. The Contractor is required to create a free web-based Procore user account(s) and utilize web-based training / tutorials (as needed) to become familiar with the system. Unless the Engineer approves otherwise, the Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. The Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of the Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that the Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, RFIs, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

## **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of City. Contractor will be under control of City only as to the result to be accomplished, but will consult with City as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of City for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. City will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. City will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify City within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which City may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At the City's election, City may deduct the indemnification amount from any balance owing to Contractor.

## **9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation

program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

#### **10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of City. If Contractor subcontracts any of the Services, Contractor will be fully responsible to City for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and City. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by City.

#### **11. OTHER CONTRACTORS**

The City reserves the right to employ other Contractors in connection with the Services.

#### **12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by the City), indemnify, and hold harmless the City and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation program is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

#### **13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current Best's Key Rating of not less than "A-:VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X";

**OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

13.1 Coverages and Limits. Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability (CGL) Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to City's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 The City will be named as an additional insured on Commercial General Liability which shall provide primary coverage to the City.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to City sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to City's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to City.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then City will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by City to obtain or maintain insurance and City may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. City reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

14. **BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

15. **ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

16. **OWNERSHIP OF DOCUMENTS**

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of City. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to City. Contractor will have the right to make one (1) copy of the work product for Contractor's records.

17. **COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in City and Contractor relinquishes all claims to the copyrights in favor of City.

18. **NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of City and on behalf of Contractor under this Agreement are:

For City:

Name	Eleida Felix Yackel
Title	Senior Contract Administrator
Dept	Public Works/ Contract Admin
	CITY OF CARLSBAD
Address	1635 Faraday Ave.
	Carlsbad, CA 92008
Phone	442-339-2767

For Contractor:

Name	Brendan Hastie
Title	Principal
Address	5620 Friars Road
	San Diego, CA, 92110
Phone	619-908-3555
Email	bhastie@rickengineering.com

Each party will notify the other immediately of any changes of address that would require any notice or

delivery to be directed to another address.

**19. GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or City will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, City may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If City decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, City may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by City and all work in progress to City at the address contained in this Agreement. City will make a determination of fact based upon the work product delivered to City and of the percentage of work that Contractor has performed which is usable and of worth to City in having the Agreement completed. Based upon that finding City will determine the final payment of the Agreement.

City may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to City. In the event of termination of this Agreement by either party and upon request of City, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to City. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. City will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, City will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any Agreement claim submitted to City must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to City, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If City seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon City and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of City, which shall not be unreasonably withheld.

**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the

City and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract, and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}



CONTRACTOR  
GLENN A. RICK ENGINEERING AND  
DEVELOPMENT CO., a California  
corporation

CITY OF CARLSBAD, a municipal  
corporation of the State of California

By:

*Brendan Hastie*

(sign here)

Brendan C. Hastie, Vice President

(print name/title)

By:

*Timothy W. Gabrielson*

(sign here)

Timothy W. Gabrielson,  
Vice President R.O.D., and Corporate Secretary  
(print name/title)

By:

Keith Blackburn, Mayor

ATTEST:

SHERRY FREISINGER, City Clerk

By:

Faviola Medina,  
Director of Constituent & Clerk Services

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation,  
Agreement must be signed by one corporate officer from each of the following two groups:

**Group A**

Chairman,  
President, **or**  
Vice-President

**Group B**

Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, City Attorney

BY:

*Cindie K. McMahon*

**EXHIBIT A****SCOPE OF SERVICES AND FEES**

Perform a variety of tasks related to storm water asset management, as outlined in the individual Project Task Descriptions and Fee Allotments (PTD&FA), including but not limited to the following:

- A. Capital Planning Software Use/Configuration/ Support.
- B. Condition Assessment Analysis And Project Support.
- C. Estimated Useful Life Guidance.
- D. Development of Risk Criteria/Decision Logic.
- E. Rehabilitation/Replacement Planning.
- F. GIS/Asset Data Support.
- G. Asset Management/Business Process Support.
- H. Regulatory Reporting/Documentation Related to Stormwater Infrastructure.

Requests for work not listed above must be contracted under separate agreement.



## Hourly Rates – California Offices

Principal Consultant (Special Projects) .....	\$325.00	Director of Watershed Science .....	\$ 280.00
Principal .....	300.00	Assistant Director - Watershed Science.....	260.00
Associate Principal .....	280.00	Principal Water Resources Project Manager.....	245.00
Associate/Manager .....	260.00	Project Scientist/Manager.....	200.00
Expert Witness .....	450.00	Principal Water Resources Designer/Scientist.....	175.00
Court Appearance per half day or part.....	1,800.00	Associate Water Resources Designer/Scientist.....	160.00
		Assistant Water Resources Designer/Scientist.....	145.00
Senior Project Manager/Engineering Manager.....	\$ 250.00	GIS Manager .....	\$ 220.00
Principal Project Engineer/Manager.....	240.00	GIS Asset Manager.....	200.00
Associate Project Engineer/Manager.....	220.00	GIS Programmer.....	180.00
Assistant Project Engineer/Manager.....	200.00	Principal GIS Project Manager.....	195.00
Principal Engineering Designer.....	175.00	Associate GIS Project Manager.....	180.00
Associate Engineering Designer.....	160.00	Assistant GIS Project Manager.....	165.00
Assistant Engineering Designer.....	145.00	Principal GIS Analyst.....	155.00
Principal Engineering Drafter.....	135.00	Associate GIS Analyst.....	140.00
Associate Engineering Drafter.....	125.00	Assistant GIS Analyst.....	125.00
Assistant Engineering Drafter .....	115.00	Graphics Designer .....	145.00
Engineering Intern.....	100.00	CAD Manager .....	180.00
Senior Technical Manager.....	200.00		
Senior Transportation/Traffic Engineer.....	\$ 250.00	Field Supervisor.....	\$ 225.00
Principal Transportation/Traffic Engineer.....	240.00	One-person Survey Party .....	185.00
Associate Transportation/Traffic Engineer.....	220.00	One-person Survey Party with Robotics.....	235.00
Assistant Transportation/Traffic Engineer.....	200.00	Two-person Survey Party .....	290.00
Principal Transportation/Traffic Designer.....	175.00	Three-person Survey Party .....	395.00
Associate Transportation/Traffic Designer.....	160.00		
Assistant Transportation/Traffic Designer.....	145.00	3D Laser Scanning Crew (One-Person).....	\$ 215.00
		3D Laser Scanning Crew (Two Person) .....	320.00
Principal Planner II.....	\$ 225.00	Principal 3D Laser Scanning Project Manager .....	\$ 210.00
Principal Planner I.....	210.00	Associate 3D Laser Scanning Project Manager .....	185.00
Senior Planner II.....	195.00	Assistant 3D Laser Scanning Project Manager .....	170.00
Senior Planner I.....	185.00	Principal 3D Laser Scanning Specialist.....	155.00
Grant Writing Specialist .....	180.00	Associate 3D Laser Scanning Specialist.....	140.00
Associate Planner .....	160.00	Assistant 3D Laser Scanning Specialist.....	125.00
Assistant Planner .....	140.00	3D Laser Scanning Technician .....	115.00
Planning Technician .....	120.00		
Principal Project Landscape Architect/Manager .....	\$ 210.00	Photogrammetry Supervisor .....	\$185.00
Associate Project Landscape Architect/Manager .....	190.00	Principal Photogrammetrist .....	165.00
Assistant Project Landscape Architect/Manager .....	170.00	Associate Photogrammetrist .....	145.00
Principal Landscape/Urban Designer .....	150.00	Assistant Photogrammetrist .....	130.00
Associate Landscape/Urban Designer .....	135.00		
Assistant Landscape/Urban Designer .....	125.00	Mapping Director .....	\$ 210.00
Director of Environmental Planning Services .....	\$ 245.00	Principal Survey Analyst .....	200.00
Principal Environmental Project Manager.....	210.00	Associate Survey Analyst.....	165.00
Associate Environmental Project Manager.....	195.00	Assistant Survey Analyst.....	135.00
Assistant Environmental Project Manager.....	180.00		
Principal Environmental Planner/Analyst .....	165.00	Associate Project Administrator .....	\$ 100.00
Associate Environmental Planner/Analyst .....	145.00	Assistant Project Administrator .....	90.00
Assistant Environmental Planner/Analyst .....	125.00	Administrative Assistant/Manager.....	85.00
Environmental Technician.....	110.00		
Principal Stormwater Project Manager.....	\$ 210.00		
Associate Stormwater Project Manager.....	190.00		
Assistant Stormwater Project Manager .....	170.00		
Principal Stormwater Specialist.....	155.00		
Associate Stormwater Specialist .....	140.00		
Assistant Stormwater Specialist .....	125.00		

Rates subject to change for prevailing wage contracts.

When authorized, overtime shall be charged at the listed rates times 1.5.

Unless otherwise agreed upon, we shall charge for printing, reproduction, deliveries, transportation, and other expenses.

A fifteen (15) percent fee for administration, coordination and handling will be added to all subcontracted services.

June 24, 2025

Item #6

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**SAMPLERS / FLOW METERS**

1	Auto Sampler	\$76.00	Daily
2	Flow Meter	\$200.00	Daily
3	Kneck Box	\$15.00	Daily
4	Rain Gauge	\$25.00	Daily
5	Remote Pump	\$50.00	Daily
6	HOBO Level Logger	\$50.00	Monthly
7	YSI 6920, or YSI Pro DSS	\$100.00	Daily
8	Hach Turbidity Meter	\$30.00	Daily
9	Sondtec 3D Flow Tracker	\$000.00	Monthly
10	Marsh-Moisture Flo-Meter	\$100.00	Daily

11	Teledyne KDI Stream Pro ADCP	\$2,000.00	Monthly
12	Portable Peristaltic Sampler	\$50.00	Daily
13	METER CTD-10 Sensor and METER EM80G Logger	\$300.00	Monthly

**CONFINED SPACE EQUIPMENT**

14	Multi Gas Lite, Entry Gas	\$80.00	Daily
15	Tripod and Wrench w/ Harness	\$150.00	Daily
16	Ventilator	\$50.00	Daily

**OTHER FIELD EQUIPMENT**

17	GPS	\$5.00	Daily
18	Laser Range Finder	\$5.00	Daily
19	Rosette Water Sampler w/ Bottles	\$25.00	Daily
20	Water Bottles (Van Dorn or Niskin)	\$25.00	Daily
21	Cellular Modem	\$150.00	Monthly

**WEATHER EQUIPMENT**

22	Weather Station with Logger	\$300.00	Monthly
23	Wind Meter (hand-held)	\$5.00	Daily

**Hourly Rates**

TABLE 1. HOURLY RATES

LABOR CLASSIFICATION	TOTAL BURDENED LABOR RATE
Principal Consultant	\$235
Principal Software Engineer	\$190
Senior Management Consultant	\$185
Senior Software Engineer	\$175
Management Consultant	\$150
Asset Specialist	\$165

Signature of Authorized Official:

Name (print): COLIN CHUNGTitle: President, Kayuga Solutions, Inc.Date: December 16, 2024

Kayuga Solutions  
 100 11th Street, Suite 100, Portland, ME 04101  
 Tel: (207) 734-1000

**MASTER AGREEMENT FOR  
STRUCTURAL ENGINEERING SERVICES  
DOKKEN ENGINEERING**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of June, 2025, but effective July 1, 2025, by and between the City of Carlsbad, California, a municipal corporation, ("City"), and Dokken Engineering, a California corporation ("Contractor").

**RECITALS**

- A. City requires the professional services of a consultant that is experienced in structural engineering services.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to structural engineering.
- D. Contractor has submitted a proposal to the city responsive to Request for Qualifications RFQ25-3437CA and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, City and Contractor agree as follows:

**1. SCOPE OF WORK**

City retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A", which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective for a period of three (3) years from July 1, 2025, through June 30, 2028. The City Manager may amend the Agreement to extend it for two (2) additional one (1) year(s) periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, City needs, and appropriation of funds by the City Council. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by City and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the City Manager or the Division Director ("Director") as authorized by the City Manager. The City Manager or Director will give allowance for

documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight on the part of Contractor, or delays caused by City inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed five hundred thousand dollars (\$500,000). Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, City shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for City, the City Manager or Director, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

If the City elects to extend the term of the Master Services Agreement, adjustments to the rate schedule may be permitted. Upon receipt of a written request from the Contractor, the City may consider approving a rate schedule increase. Rate schedule increases will be considered for each anniversary of the Agreement effective date after the initial three-year term. An increase to the rate schedule will be calculated based on the proceeding 12-month percentage change in the Consumer Price Index, San Diego Area, for All Urban Customers (CPI-U), as reported by the Bureau of Labor Statistics or 5.0%, whichever is lower. If the CPI-U is a negative number, then the rate schedule will not be adjusted for that year. The Contractor must submit a request and justification to increase the rate schedule at least sixty days prior to the anniversary of the effective date, assuming the City opt to extend the Master Services Agreement. The justification accompanying the written request should detail the rationale for the requested adjustment, and the requested adjustment amount, supported by relevant documentation (e.g., CPI-U or 5.0%, whichever is less). Approval of rate schedule increase by the City must be documented in an amendment to the Agreement.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California

Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize the Owner's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. The Contractor is required to create a free web-based Procore user account(s) and utilize web-based training / tutorials (as needed) to become familiar with the system. Unless the Engineer approves otherwise, the Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. The Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of the Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that the Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, RFIs, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

## **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of City. Contractor will be under control of City only as to the result to be accomplished, but will consult with City as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of City for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. City will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. City will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify City within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which City may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At the City's election, City may deduct the indemnification amount from any balance owing to Contractor.



**9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

**10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of City. If Contractor subcontracts any of the Services, Contractor will be fully responsible to City for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and City. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by City.

**11. OTHER CONTRACTORS**

The City reserves the right to employ other Contractors in connection with the Services.

**12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by the City), indemnify, and hold harmless the City and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation program is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

**13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current

Best's Key Rating of not less than "A-:VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

13.1 Coverages and Limits. Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability (CGL) Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to City's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 The City will be named as an additional insured on Commercial General Liability which shall provide primary coverage to the City.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to City sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to City's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to City.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then City will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by City to obtain or maintain insurance and City may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. City reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

14. **BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

15. **ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

16. **OWNERSHIP OF DOCUMENTS**

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of City. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to City. Contractor will have the right to make one (1) copy of the work product for Contractor's records.

17. **COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in City and Contractor relinquishes all claims to the copyrights in favor of City.

18. **NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of City and on behalf of Contractor under this Agreement are:

For City:

Name	<u>Eleida Felix Yackel</u>
Title	<u>Senior Contract Administrator</u>
Dept	<u>Public Works/ Contract Admin</u>
	<u>CITY OF CARLSBAD</u>
Address	<u>1635 Faraday Ave.</u>
	<u>Carlsbad, CA 92008</u>

For Contractor:

Name	<u>John A. Klemunes, Jr.</u>
Title	<u>President</u>
Address	<u>110 Blue Ravine Rd, Suite 200</u>
	<u>Folsom, CA 95630</u>
Phone	<u>916-858-0642</u>
Email	<u>jklemunes@dokkenengineering.com</u>

Phone 442-339-2767

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

**19. GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or City will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, City may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If City decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, City may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by City and all work in progress to City at the address contained in this Agreement. City will make a determination of fact based upon the work product delivered to City and of the percentage of work that Contractor has performed which is

usable and of worth to City in having the Agreement completed. Based upon that finding City will determine the final payment of the Agreement.

City may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to City. In the event of termination of this Agreement by either party and upon request of City, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to City. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. City will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, City will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any Agreement claim submitted to City must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to City, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If City seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon City and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of City, which shall not be unreasonably withheld.

**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the City and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract, and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}

CONTRACTOR  
DOKKEN ENGINEERING, a California  
corporation

CITY OF CARLSBAD, a municipal  
corporation of the State of California

By:

John A. Klemunes, Jr.

(sign here)

John A. Klemunes, President

(print name/title)

By:

(sign here)

(print name/title)

By:

Keith Blackburn, Mayor

ATTEST:

SHERRY FREISINGER, City Clerk

By:

Faviola Medina,  
Director of Constituent & Clerk Services

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation,  
Agreement must be signed by one corporate officer from each of the following two groups:

**Group A**

Chairman,  
President, **or**  
Vice-President

**Group B**

Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary  
under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, City Attorney

BY:

Cindie K. McMahon

**EXHIBIT A**

**SCOPE OF SERVICES AND FEES**

Perform a variety of tasks related to structural engineering services, as outlined in the individual Project Task Descriptions and Fee Allotments (PTD&FA), including but not limited to the following:

- A. Bridges Preventative Maintenance.
- B. Buildings and Other Structures.
- C. Structural Design and Evaluations.

Requests for work not listed above must be contracted under separate agreement.



**ATTACHMENT B –MASTER SERVICES AGREEMENT RATE SCHEDULE**

Prices valid through Term of Agreement

<b><u>DOKKEN ENGINEERING</u></b>			
	<b><u>NAME</u></b>	<b><u>TITLE</u></b>	<b><u>HOURLY RATE</u></b>
1.	Charles Tornaci, PE	Contract/Project Manager	\$295.00
2.	Staff	Principal in Charge	\$325.00
3.	Staff	QA/QC Manager	\$325.00
4.	Staff	Senior Engineer 2	\$295.00
5.	Staff	Senior Engineer 1	\$255.00
6.	Staff	Associate Engineer 2	\$205.00
7.	Staff	Associate Engineer 1	\$185.00
8.	Staff	Assistant Engineer 2	\$160.00
9.	Staff	Assistant Engineer 1	\$135.00
10.	Staff	Senior CAD Manager	\$245.00
11.	Staff	CAD/Engineering Technician 2	\$160.00
12.	Staff	CAD/Engineering Technician 1	\$125.00
13.	Staff	Environmental Manager	\$285.00
14.	Staff	Principal Planner	\$215.00
15.	Staff	Senior Environmental Planner	\$195.00
16.	Staff	Associate Environmental Planner	\$145.00
17.	Staff	Environmental Planner	\$115.00
18.	Staff	Environmental Technician	\$95.00
19.	Staff	Right of Way Manager	\$235.00
20.	Staff	Senior Right of Way Agent	\$195.00
21.	Staff	Right of Way Agent	\$125.00
22.	Staff	Right of Way Appraiser	\$125.00
23.	Staff	Right of Way Assistant	\$95.00

<b><u>EXPENSES</u></b>			
	<b><u>DESCRIPTION</u></b>	<b><u>COST</u></b>	<b><u>% MARKUP</u></b>
1.	Outside Reproduction	Actual Cost	0%
2.	Permit Fees	Actual Cost	0%
3.	Public Notice Advertisements	Actual Cost	0%
4.	Postage for Public Notice Advertisements	Actual Cost	0%
5.	Record Search Fees / EDR Reports	Actual Cost	0%
6.	Room and Equipment Rentals	Actual Cost	0%
7.	Traffic Control	Actual Cost	0%
8.	Utility Potholing	Actual Cost	0%
9.	Title Reports	Actual Cost	0%
10.	Appraisals	Actual Cost	0%
11.	Appraisal Reviews	Actual Cost	0%

**MASTER AGREEMENT FOR  
STRUCTURAL ENGINEERING SERVICES  
IDS GROUP, INC.**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of June, 2025, but effective July 1, 2025, by and between the City of Carlsbad, California, a municipal corporation, ("City"), and IDS Group, Inc., a California corporation ("Contractor").

**RECITALS**

- A. City requires the professional services of a consultant that is experienced in structural engineering services.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to structural engineering.
- D. Contractor has submitted a proposal to the city responsive to Request for Qualifications RFQ25-3437CA and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, City and Contractor agree as follows:

**1. SCOPE OF WORK**

City retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A", which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective for a period of three (3) years from July 1, 2025, through June 30, 2028. The City Manager may amend the Agreement to extend it for two (2) additional one (1) year(s) periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, City needs, and appropriation of funds by the City Council. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by City and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the City Manager or the Division Director ("Director") as authorized by the City Manager. The City Manager or Director will give allowance for

documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight on the part of Contractor, or delays caused by City inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed seven hundred thousand dollars (\$700,000). Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, City shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for City, the City Manager or Director, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

If the City elects to extend the term of the Master Services Agreement, adjustments to the rate schedule may be permitted. Upon receipt of a written request from the Contractor, the City may consider approving a rate schedule increase. Rate schedule increases will be considered for each anniversary of the Agreement effective date after the initial three-year term. An increase to the rate schedule will be calculated based on the proceeding 12-month percentage change in the Consumer Price Index, San Diego Area, for All Urban Customers (CPI-U), as reported by the Bureau of Labor Statistics or 5.0%, whichever is lower. If the CPI-U is a negative number, then the rate schedule will not be adjusted for that year. The Contractor must submit a request and justification to increase the rate schedule at least sixty days prior to the anniversary of the effective date, assuming the City opt to extend the Master Services Agreement. The justification accompanying the written request should detail the rationale for the requested adjustment, and the requested adjustment amount, supported by relevant documentation (e.g., CPI-U or 5.0%, whichever is less). Approval of rate schedule increase by the City must be documented in an amendment to the Agreement.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California

Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize the Owner's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. The Contractor is required to create a free web-based Procore user account(s) and utilize web-based training / tutorials (as needed) to become familiar with the system. Unless the Engineer approves otherwise, the Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. The Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of the Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that the Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, RFIs, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

## **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of City. Contractor will be under control of City only as to the result to be accomplished, but will consult with City as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of City for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. City will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. City will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify City within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which City may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At the City's election, City may deduct the indemnification amount from any balance owing to Contractor.

**9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

**10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of City. If Contractor subcontracts any of the Services, Contractor will be fully responsible to City for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and City. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by City.

**11. OTHER CONTRACTORS**

The City reserves the right to employ other Contractors in connection with the Services.

**12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by the City), indemnify, and hold harmless the City and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation program is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

**13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current

Best's Key Rating of not less than "A-:VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

13.1 Coverages and Limits. Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability (CGL) Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to City's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 The City will be named as an additional insured on Commercial General Liability which shall provide primary coverage to the City.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to City sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to City's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to City.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then City will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by City to obtain or maintain insurance and City may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. City reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

**14. BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

**15. ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

**16. OWNERSHIP OF DOCUMENTS**

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of City. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to City. Contractor will have the right to make one (1) copy of the work product for Contractor's records.

**17. COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in City and Contractor relinquishes all claims to the copyrights in favor of City.

**18. NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of City and on behalf of Contractor under this Agreement are:

<u>For City:</u>	
Name	<u>Eleida Felix Yackel</u>
Title	<u>Senior Contract Administrator</u>
Dept	<u>Public Works/ Contract Admin</u>
	<u>CITY OF CARLSBAD</u>
Address	<u>1635 Faraday Ave.</u>
	<u>Carlsbad, CA 92008</u>

<u>For Contractor:</u>	
Name	<u>Rami Elhassan</u>
Title	<u>Vice President</u>
Address	<u>1 Peters Canyon Road</u>
	<u>Irvine, CA 92606</u>
Phone	<u>949-387-8500</u>
Email	<u>rami.elhassan@idsgi.com</u>

Phone 442-339-2767

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

**19. GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or City will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, City may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If City decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, City may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by City and all work in progress to City at the address contained in this Agreement. City will make a determination of fact based upon the work product delivered to City and of the percentage of work that Contractor has performed which is



usable and of worth to City in having the Agreement completed. Based upon that finding City will determine the final payment of the Agreement.

City may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to City. In the event of termination of this Agreement by either party and upon request of City, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to City. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. City will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, City will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any Agreement claim submitted to City must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to City, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If City seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon City and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of City, which shall not be unreasonably withheld.

**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the City and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract, and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}

CONTRACTOR  
IDS Group, Inc., a California corporation

CITY OF CARLSBAD, a municipal  
corporation of the State of California

By:

Said Hilmy, President

(sign here)

Said Hilmy, President

(print name/title)

By:

Rami Elhassan, Secretary

(sign here)

Rami Elhassan, Secretary

(print name/title)

By:

Keith Blackburn, Mayor

ATTEST:

SHERRY FREISINGER, City Clerk

By:

Faviola Medina,  
Director of Constituent & Clerk Services

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

**Group A**

Chairman,  
President, **or**  
Vice-President

**Group B**

Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, City Attorney

BY:

Cindie K. McMahon

**EXHIBIT A**

**SCOPE OF SERVICES AND FEES**

Perform a variety of tasks related to structural engineering services, as outlined in the individual Project Task Descriptions and Fee Allotments (PTD&FA), including but not limited to the following:

- A. Bridges Preventative Maintenance.
- B. Buildings and Other Structures.
- C. Structural Design and Evaluations.

Requests for work not listed above must be contracted under separate agreement.



## ATTACHMENT B-MASTER SERVICES AGREEMENT RATE SCHEDULE

### Discipline No. I I-Structural

Prices valid through Term of Agreement

STAFF NAME	TITLE	HOURLY RATE
Rami Elhassan, PhD, PE, SE	Principal In Charge / Contract Administration	\$248
Victor Mercado, PE, SE	Senior Project Manager	\$224
Jaime Rosenbach, PE, SE	Senior Project Manager	\$224
Stephan Uthoff, PE, SE	Project Manager	\$209
John Van Valkenburg, PE, SE	Project Manager	\$209
Henry Hadidi, PhD, PE, SE	Project Manager	\$209
Mohsen Kargahi, PhD, PE	Project Manager	\$209
Ellen Wu PhD, PE	Project Manager	\$209

SUBCONSULTANT STAFF NAME	TITLE	HOURLY RATE
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Not Applicable

SUBCONSULTANT STAFF NAME	TITLE	HOURLY RATE
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Not Applicable

EXPENSES DESCRIPTION	COST	% MARK-UP
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Mileage	\$0.67	10%
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Expenses such as, but not limited to plan check fees, permits inspections, testing services, title company fees, special delivery charges, plotting/presentation boards, maps, aerial photographs, and reprographics / illustrations that may be required for community or other stakeholder presentations, shall be billed to the owner at Consultant's direct cost plus 10%.

*Our standard rate sheet follows Attachment B with hourly rates of staff members who may be utilized as-needed in addition to the key staff members listed above.*



# Standard Rates

## IDS GROUP, INC.

### City of Carlsbad Master Services Agreement for Consultants Number: RFQ25-3437CA

Title - Association	Hourly Rate
Principal	\$248
Associate Principal	\$233
Senior Project Manager   Associate	\$224
Senior Planner	\$224
QA/QC Manager	\$224
Registered Architect   Engineer	\$209
Project Manager	\$209
Senior Architect   Engineer	\$196
Senior Cost Estimator	\$186
Project Architect   Engineer	\$186
Senior Designer	\$180
Designer Architect   Engineer	\$170
Specifications Writer	\$170
Engineering Designer - BIM	\$147
Architectural Job Captain   Designer	\$140
CAD Drafting Engineer   Architect	\$125
Office Administration	\$77

Expenses such as, but not limited to plan check fees, permits inspections, testing services, title company fees, special delivery charges, plotting/presentation boards, maps, aerial photographs, and reprographics / illustrations that may be required for community or other stakeholder presentations, shall be billed to the owner at Consultant's direct cost plus 10%.

**MASTER AGREEMENT FOR SURVEYING SERVICES  
RIGHT-OF-WAY ENGINEERING SERVICES, INC.**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of June, 2025, but effective July 1, 2025, by and between the City of Carlsbad, California, a municipal corporation, ("City"), and Right-of-Way Engineering Services, Inc., a California corporation ("Contractor").

**RECITALS**

- A. City requires the professional services of a consultant that is experienced in surveying.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to surveying services.
- D. Contractor has submitted a proposal to the city responsive to Request for Qualifications RFQ25-3437CA and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, City and Contractor agree as follows:

**1. SCOPE OF WORK**

City retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A", which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective for a period of three (3) years from July 1, 2025, through June 30, 2028. The City Manager may amend the Agreement to extend it for two (2) additional one (1) year(s) periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, City needs, and appropriation of funds by the City Council. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by City and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the City Manager or the Division Director ("Director") as authorized by the City Manager. The City Manager or Director will give allowance for documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight on the part of Contractor, or delays caused by City inaction or other agencies' lack of timely action. In no

event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed five hundred thousand dollars (\$500,000). Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, City shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for City, the City Manager or Director, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

If the City elects to extend the term of the Master Services Agreement, adjustments to the rate schedule may be permitted. Upon receipt of a written request from the Contractor, the City may consider approving a rate schedule increase. Rate schedule increases will be considered for each anniversary of the Agreement effective date after the initial three-year term. An increase to the rate schedule will be calculated based on the proceeding 12-month percentage change in the Consumer Price Index, San Diego Area, for All Urban Customers (CPI-U), as reported by the Bureau of Labor Statistics or 5.0%, whichever is lower. If the CPI-U is a negative number, then the rate schedule will not be adjusted for that year. The Contractor must submit a request and justification to increase the rate schedule at least sixty days prior to the anniversary of the effective date, assuming the City opt to extend the Master Services Agreement. The justification accompanying the written request should detail the rationale for the requested adjustment, and the requested adjustment amount, supported by relevant documentation (e.g., CPI-U or 5.0%, whichever is less). Approval of rate schedule increase by the City must be documented in an amendment to the Agreement.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work unless currently registered and qualified to perform



public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize the Owner's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. The Contractor is required to create a free web-based Procore user account(s) and utilize web-based training / tutorials (as needed) to become familiar with the system. Unless the Engineer approves otherwise, the Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. The Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of the Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that the Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, RFIs, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

## **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of City. Contractor will be under control of City only as to the result to be accomplished, but will consult with City as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of City for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. City will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. City will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify City within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which City may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At the City's election, City may deduct the indemnification amount from any balance owing to Contractor.

## **9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation

program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

**10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of City. If Contractor subcontracts any of the Services, Contractor will be fully responsible to City for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and City. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by City.

**11. OTHER CONTRACTORS**

The City reserves the right to employ other Contractors in connection with the Services.

**12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by the City), indemnify, and hold harmless the City and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation program is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

**13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current Best's Key Rating of not less than "A:-VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X";

**OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

13.1 Coverages and Limits. Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability (CGL) Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to City's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 The City will be named as an additional insured on Commercial General Liability which shall provide primary coverage to the City.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to City sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to City's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to City.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then City will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by City to obtain or maintain insurance and City may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. City reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

14. **BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

15. **ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

16. **OWNERSHIP OF DOCUMENTS**

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of City. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to City. Contractor will have the right to make one (1) copy of the work product for Contractor’s records.

17. **COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in City and Contractor relinquishes all claims to the copyrights in favor of City.

18. **NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of City and on behalf of Contractor under this Agreement are:

For City:

Name	Eleida Felix Yackel
Title	Senior Contract Administrator
Dept	Public Works/ Contract Admin
	CITY OF CARLSBAD
Address	1635 Faraday Ave.
	Carlsbad, CA 92008
Phone	442-339-2767

For Contractor:

Name	Michael Schlumpberger
Title	President
Address	615 South Tremont Street
	Oceanside CA 92054
Phone	(760) 637-2700
Email	mikes@roweng.net

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

**19. GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or City will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, City may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If City decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, City may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by City and all work in progress to City at the address contained in this Agreement. City will make a determination of fact based upon the work product delivered to City and of the percentage of work that Contractor has performed which is usable and of worth to City in having the Agreement completed. Based upon that finding City will determine the final payment of the Agreement.

City may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to City. In the event of termination of this Agreement by either party and upon request of City, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to City. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. City will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, City will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any Agreement claim submitted to City must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to City, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If City seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon City and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of City, which shall not be unreasonably withheld.

**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the

City and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract, and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}

CONTRACTOR  
RIGHT-OF-WAY ENGINEERING SERVICES,  
INC., a California corporation

CITY OF CARLSBAD, a municipal  
corporation of the State of California

By: Michael Schlumpberger  
\_\_\_\_\_  
(sign here)  
Michael Louis Schlumpberger,  
\_\_\_\_\_  
President, Secretary and CFO  
(print name/title)

By: \_\_\_\_\_  
Keith Blackburn, Mayor

ATTEST:  
SHERRY FREISINGER, City Clerk

By: \_\_\_\_\_  
\_\_\_\_\_  
(sign here)  
\_\_\_\_\_  
(print name/title)

By: \_\_\_\_\_  
Faviola Medina,  
Director of Constituent & Clerk Services

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

**Group A**  
Chairman,  
President, **or**  
Vice-President

**Group B**  
Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, City Attorney

BY: Cindie K. McMahon



**EXHIBIT A****SCOPE OF SERVICES AND FEES**

Perform a variety of tasks related to surveying, as outlined in the individual Project Task Descriptions and Fee Allotments (PTD&FA), including but not limited to the following:

- A. Aerial Surveying/ Photogrammetric/ Drone Surveying Services.
- B. Geographic Information Systems (GIS).
- C. Property Acquisition Plats and Legal.
- D. Utility Mapping.
- E. Drone site documentation.

Requests for work not listed above must be contracted under separate agreement.

**Discipline 12 - Surveying**  
**Right-of-Way Engineering Services, Inc.**  
**Fee Schedule**

Prices valid through Term of Agreement

<b><u>STAFF</u></b>			
	<b><u>NAME</u></b>	<b><u>TITLE</u></b>	<b><u>HOURLY RATE</u></b>
1	Michael Schlumpberger, PLS	Supervising Land Surveyor	\$170.00
2	Joshua Tatman, PLS	Senior Land Surveyor	\$150.00
3	Joshua Tatman, PLS	CAD Draftsman	\$140.00
4	Michael Schlumpberger, PLS	Land Surveyor, Field	\$250.00
5	Robert Gates	Party Chief, Field	\$170.00
6	International Operating Engineers - Local 12 Journeymen	Chainman, Field	\$130.00
7			

<b><u>SUB-CONSULTANTS</u></b>			
	<b><u>NAME / FIRM</u></b>	<b><u>TITLE</u></b>	<b><u>HOURLY RATE</u></b>
1	Photogeodetic	Photogrammatrist/compiler	\$120.00
2			
3			
4			

<b><u>EXPENSES</u></b>			
	<b><u>DESCRIPTION</u></b>	<b><u>COST</u></b>	<b><u>% MARKUP</u></b>
1	Photogrametric Services	Project Based	5%
2	Traffic Control	Project Based	5%
3			

**MASTER AGREEMENT FOR SURVEYING SERVICES  
O'DAY CONSULTANTS, INC.**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of June, 2025, but effective July 1, 2025, by and between the City of Carlsbad, California, a municipal corporation, ("City"), and O'Day Consultants, Inc., a California corporation ("Contractor").

**RECITALS**

- A. City requires the professional services of a consultant that is experienced in surveying.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to surveying services.
- D. Contractor has submitted a proposal to the city responsive to Request for Qualifications RFQ25-3437CA and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, City and Contractor agree as follows:

**1. SCOPE OF WORK**

City retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A", which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective for a period of three (3) years from July 1, 2025, through June 30, 2028. The City Manager may amend the Agreement to extend it for two (2) additional one (1) year(s) periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, City needs, and appropriation of funds by the City Council. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by City and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the City Manager or the Division Director ("Director") as authorized by the City Manager. The City Manager or Director will give allowance for documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight on the part of Contractor, or delays caused by City inaction or other agencies' lack of timely action. In no

event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed five hundred thousand dollars (\$500,000). Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, City shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for City, the City Manager or Director, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

If the City elects to extend the term of the Master Services Agreement, adjustments to the rate schedule may be permitted. Upon receipt of a written request from the Contractor, the City may consider approving a rate schedule increase. Rate schedule increases will be considered for each anniversary of the Agreement effective date after the initial three-year term. An increase to the rate schedule will be calculated based on the proceeding 12-month percentage change in the Consumer Price Index, San Diego Area, for All Urban Customers (CPI-U), as reported by the Bureau of Labor Statistics or 5.0%, whichever is lower. If the CPI-U is a negative number, then the rate schedule will not be adjusted for that year. The Contractor must submit a request and justification to increase the rate schedule at least sixty days prior to the anniversary of the effective date, assuming the City opt to extend the Master Services Agreement. The justification accompanying the written request should detail the rationale for the requested adjustment, and the requested adjustment amount, supported by relevant documentation (e.g., CPI-U or 5.0%, whichever is less). Approval of rate schedule increase by the City must be documented in an amendment to the Agreement.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work unless currently registered and qualified to perform

public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize the Owner's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. The Contractor is required to create a free web-based Procore user account(s) and utilize web-based training / tutorials (as needed) to become familiar with the system. Unless the Engineer approves otherwise, the Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. The Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of the Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that the Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, RFIs, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

## **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of City. Contractor will be under control of City only as to the result to be accomplished, but will consult with City as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of City for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. City will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. City will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify City within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which City may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At the City's election, City may deduct the indemnification amount from any balance owing to Contractor.

## **9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation

program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

**10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of City. If Contractor subcontracts any of the Services, Contractor will be fully responsible to City for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and City. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by City.

**11. OTHER CONTRACTORS**

The City reserves the right to employ other Contractors in connection with the Services.

**12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by the City), indemnify, and hold harmless the City and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation program is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

**13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current Best's Key Rating of not less than "A:-VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X";

**OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

13.1 Coverages and Limits. Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability (CGL) Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to City's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 The City will be named as an additional insured on Commercial General Liability which shall provide primary coverage to the City.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to City sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to City's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to City.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then City will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by City to obtain or maintain insurance and City may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. City reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

14. **BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

15. **ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

16. **OWNERSHIP OF DOCUMENTS**

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of City. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to City. Contractor will have the right to make one (1) copy of the work product for Contractor’s records.

17. **COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in City and Contractor relinquishes all claims to the copyrights in favor of City.

18. **NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of City and on behalf of Contractor under this Agreement are:

For City:

Name	Eleida Felix Yackel
Title	Senior Contract Administrator
Dept	Public Works/ Contract Admin
	CITY OF CARLSBAD
Address	1635 Faraday Ave.
	Carlsbad, CA 92008
Phone	442-339-2767

For Contractor:

Name	Keith Hansen
Title	Vice President
Address	1959 Palomar Oaks Way #130
	Carlsbad, CA 92011
Phone	760-931-7700 x203
Email	keithh@odayconsultants.com



Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

**19. GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or City will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, City may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If City decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, City may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by City and all work in progress to City at the address contained in this Agreement. City will make a determination of fact based upon the work product delivered to City and of the percentage of work that Contractor has performed which is usable and of worth to City in having the Agreement completed. Based upon that finding City will determine the final payment of the Agreement.

City may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to City. In the event of termination of this Agreement by either party and upon request of City, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to City. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. City will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, City will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any Agreement claim submitted to City must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to City, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If City seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon City and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of City, which shall not be unreasonably withheld.

**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the

City and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract, and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}

CONTRACTOR  
O'DAY CONSULTANTS, INC., a California  
corporation

CITY OF CARLSBAD, a municipal  
corporation of the State of California

By: Keith Hansen, Vice President

(sign here)

Keith Hansen, Vice President

(print name/title)

By:

(sign here)

(print name/title)

By:

Keith Blackburn, Mayor

ATTEST:

SHERRY FREISINGER, City Clerk

By:

Faviola Medina,  
Director of Constituent & Clerk Services

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

**Group A**  
Chairman,  
President, **or**  
Vice-President

**Group B**  
Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, City Attorney

BY: Cindie K. McMahon

**EXHIBIT A****SCOPE OF SERVICES AND FEES**

Perform a variety of tasks related to surveying, as outlined in the individual Project Task Descriptions and Fee Allotments (PTD&FA), including but not limited to the following:

- A. Aerial Surveying/ Photogrammetric/ Drone Surveying Services.
- B. Geographic Information Systems (GIS).
- C. Property Acquisition Plats and Legal.
- D. Utility Mapping.
- E. Drone site documentation.

Requests for work not listed above must be contracted under separate agreement.

# ATTACHMENT B –MASTER SERVICES AGREEMENT RATE SCHEDULE - page 1 of 2

Prices valid through Term of Agreement

<b><u>STAFF</u></b>			
	<b><u>NAME/FIRM</u></b>	<b><u>TITLE</u></b>	<b><u>HOURLY RATE</u></b>
1.	Keith Hansen / O'Day	Contract Project Manager	\$255.00
2.	George O'Day / O'Day	Project Survey Manager / Licensed Surveyor	\$255.00
3.	Damon Becker/ O'Day	Project Survey Supervisor/ Party Chief	\$186.00
4.	Dylan Hibbard/O'Day	Design Engineer	\$179.00
5.	Dylan Hibbard/O'Day	AutoCad Technician	\$167.00
6.	Dylan Hibbard/O'Day	Construction Office Management / Document Control	\$97.00
7.	1 Man Survey Crew / Supervisor	Prevailing Wage Rate	\$221.00
8.	2 Man Survey Crew	Prevailing Wage Rate	\$395.00

<b><u>EXPENSES – O'DAY</u></b>		
<b><u>DESCRIPTION</u></b>	<b><u>COST</u></b>	<b><u>%MARKUP</u></b>
IN-HOUSE COPY EXPENSES	LISTED BELOW	0%

	<b>8.5x11</b>	<b>11x17</b>	<b>18x26</b>	<b>24x36</b>	<b>30x42</b>
<b>IN-HOUSE - Black &amp; White</b>	\$ 0.30	\$ 0.60	\$ 1.50	\$ 2.76	\$ 4.03
<b>IN-HOUSE - Color</b>	\$ 0.72	\$ 1.43	\$ 3.56	\$ 6.56	\$ 9.56
<b>SUBMITTAL - Black &amp; White</b>	\$ 0.75	\$ 1.50	\$ 3.74	\$ 6.90	\$ 10.07
<b>SUBMITTAL - Color</b>	\$ 2.25	\$ 4.49	\$ 11.22	\$ 20.70	\$ 30.19



**ATTACHMENT B –MASTER SERVICES AGREEMENT RATE SCHEDULE - page 2 of 2**  
 Prices valid through Term of Agreement

<b><u>SUB-CONSULTANTS</u></b>		
<b><u>NAME/FIRM</u></b>	<b><u>TITLE</u></b>	<b><u>HOURLY RATE</u></b>
Eric Phan / Aerotech	PM - Aerial Surveying/ Photogrammetry	\$140.49
Aerotech	Photogrammetrist (LiDAR Calibration & Classification)	\$103.79
Aerotech	Photogrammetrist (Analytical Triangulation)	\$99.86
Aerotech	Photogrammetrist (DTM Collection)	\$89.57
Aerotech	Photogrammetrist (Digital Ortho Generation)	\$88.19

<b><u>EXPENSES – AEROTECH</u></b>		
<b><u>DESCRIPTION</u></b>	<b><u>COST</u></b>	<b><u>%MARKUP</u></b>
Mobilization – Flight Time	\$825.00	0%
Aircraft - Camera	\$950.00	0%
Aircraft - LiDAR	\$1,450.00	0%
Mobile LiDAR	\$610.00	0%
Mileage	\$0.655	0%
Lodging	\$107.00	0%
Meals (Full Day)	\$49.00	0%
Meals (Travel Day)	\$36.75	0%

**MASTER AGREEMENT FOR SURVEYING SERVICES  
NV5, INC.**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of June, 2025, but effective July 1, 2025, by and between the City of Carlsbad, California, a municipal corporation, ("City"), and NV5, Inc., a California corporation ("Contractor").

**RECITALS**

- A. City requires the professional services of a consultant that is experienced in surveying.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to surveying services.
- D. Contractor has submitted a proposal to the city responsive to Request for Qualifications RFQ25-3437CA and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, City and Contractor agree as follows:

**1. SCOPE OF WORK**

City retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A", which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective for a period of three (3) years from July 1, 2025, through June 30, 2028. The City Manager may amend the Agreement to extend it for two (2) additional one (1) year(s) periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, City needs, and appropriation of funds by the City Council. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by City and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the City Manager or the Division Director ("Director") as authorized by the City Manager. The City Manager or Director will give allowance for documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight on the part of Contractor, or delays caused by City inaction or other agencies' lack of timely action. In no



event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed five hundred thousand dollars (\$500,000). Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, City shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for City, the City Manager or Director, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

If the City elects to extend the term of the Master Services Agreement, adjustments to the rate schedule may be permitted. Upon receipt of a written request from the Contractor, the City may consider approving a rate schedule increase. Rate schedule increases will be considered for each anniversary of the Agreement effective date after the initial three-year term. An increase to the rate schedule will be calculated based on the proceeding 12-month percentage change in the Consumer Price Index, San Diego Area, for All Urban Customers (CPI-U), as reported by the Bureau of Labor Statistics or 5.0%, whichever is lower. If the CPI-U is a negative number, then the rate schedule will not be adjusted for that year. The Contractor must submit a request and justification to increase the rate schedule at least sixty days prior to the anniversary of the effective date, assuming the City opt to extend the Master Services Agreement. The justification accompanying the written request should detail the rationale for the requested adjustment, and the requested adjustment amount, supported by relevant documentation (e.g., CPI-U or 5.0%, whichever is less). Approval of rate schedule increase by the City must be documented in an amendment to the Agreement.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work unless currently registered and qualified to perform

public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize the Owner's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. The Contractor is required to create a free web-based Procore user account(s) and utilize web-based training / tutorials (as needed) to become familiar with the system. Unless the Engineer approves otherwise, the Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. The Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of the Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that the Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, RFIs, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

## **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of City. Contractor will be under control of City only as to the result to be accomplished, but will consult with City as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of City for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. City will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. City will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify City within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which City may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At the City's election, City may deduct the indemnification amount from any balance owing to Contractor.

## **9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation

program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

**10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of City. If Contractor subcontracts any of the Services, Contractor will be fully responsible to City for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and City. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by City.

**11. OTHER CONTRACTORS**

The City reserves the right to employ other Contractors in connection with the Services.

**12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by the City), indemnify, and hold harmless the City and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation program is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

**13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current Best's Key Rating of not less than "A-:VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X";

**OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

13.1 Coverages and Limits. Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability (CGL) Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to City's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 The City will be named as an additional insured on Commercial General Liability which shall provide primary coverage to the City.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to City sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to City's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to City.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then City will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by City to obtain or maintain insurance and City may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. City reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

14. **BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

15. **ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

16. **OWNERSHIP OF DOCUMENTS**

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of City. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to City. Contractor will have the right to make one (1) copy of the work product for Contractor’s records.

17. **COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in City and Contractor relinquishes all claims to the copyrights in favor of City.

18. **NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of City and on behalf of Contractor under this Agreement are:

For City:

Name	Eleida Felix Yackel
Title	Senior Contract Administrator
Dept	Public Works/ Contract Admin
	CITY OF CARLSBAD
Address	1635 Faraday Ave.
	Carlsbad, CA 92008
Phone	442-339-2767

For Contractor:

Name	Jeffrey M. Cooper
Title	Executive Vice President, COO
Address	15092 Avenue of Science
	San Diego, CA 92128
Phone	858.385.2100
Email	Jeff.Cooper@NV5.com

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

**19. GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or City will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, City may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If City decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, City may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by City and all work in progress to City at the address contained in this Agreement. City will make a determination of fact based upon the work product delivered to City and of the percentage of work that Contractor has performed which is usable and of worth to City in having the Agreement completed. Based upon that finding City will determine the final payment of the Agreement.

City may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to City. In the event of termination of this Agreement by either party and upon request of City, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to City. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. City will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, City will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any Agreement claim submitted to City must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to City, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If City seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon City and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of City, which shall not be unreasonably withheld.

**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the

City and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract, and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}



CONTRACTOR  
NV5, INC., a California corporation

CITY OF CARLSBAD, a municipal  
corporation of the State of California

By: Jeffrey Cooper, COO INF West  
(sign here)

By: \_\_\_\_\_  
Keith Blackburn, Mayor

Jeffrey Cooper, COO INF West  
(print name/title)

ATTEST:

SHERRY FREISINGER, City Clerk

By: \_\_\_\_\_  
(sign here)

By: \_\_\_\_\_  
Faviola Medina,  
Director of Constituent & Clerk Services

\_\_\_\_\_  
(print name/title)

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

**Group A**  
Chairman,  
President, **or**  
Vice-President

**Group B**  
Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, City Attorney

BY: Cindie K. McMahon

**EXHIBIT A****SCOPE OF SERVICES AND FEES**

Perform a variety of tasks related to surveying, as outlined in the individual Project Task Descriptions and Fee Allotments (PTD&FA), including but not limited to the following:

- A. Aerial Surveying/ Photogrammetric/ Drone Surveying Services.
- B. Geographic Information Systems (GIS).
- C. Property Acquisition Plats and Legal.
- D. Utility Mapping.
- E. Drone site documentation.

Requests for work not listed above must be contracted under separate agreement.

# FEE SCHEDULE



## Fee Schedule

NAME	TITLE	HOURLY RATE**
Joel Paulson, PLS, GISP	Director, Survey	\$235
Justin Pallamary, PLS	Program Director, Survey	\$235
Kurt Kathol	Business Unit Manager	\$224
Jeff Sykes	Land Acquisition Manager	\$224
Amy Storey, LEED AP	GIS Manager	\$193
Andrew Karydes, PLS	Senior Surveyor	\$197
Rosemarie Silva, PLS	Survey Manager	\$224
J Braley, PLS	Survey Manager	\$224
Christopher Endozo, PE, PLS	Senior Surveyor	\$197
Brian Hill, LSIT	Assistant Surveyor	\$148
Julihanna Mandeville, EIT	Associate Surveyor	\$170
Brian Hendrix, LSIT	Director, Survey	\$235
Brian Wolf, LSIT	Associate Surveyor	\$170
Michael Albini, LSIT	Associate Surveyor	\$170
Byram Jennex, LSIT	Associate Surveyor	\$170
1-Person Survey Crew*		\$184
2-Person Survey Crew*		\$330
3-Person Survey Crew*		\$445
Matt O'Brien	Program Director, sUAS	\$235
Vanessa O'Brien	sUAS Project Manager	\$165
Houston Lear	sUAS Field Manager	\$176
David Rhoades	CAD/LiDAR/Photogrammetry Analyst II	\$125
Brent Nelson	CAD/LiDAR/Photogrammetry Analyst II	\$125
Connor Bass	CAD/LiDAR/Photogrammetry Analyst II	\$125
Jordan Major	CAD/LiDAR/Photogrammetry Analyst II	\$125
Daejong Yang	CAD/LiDAR/Photogrammetry Analyst II	\$125
Riley Buoen	CAD/LiDAR/Photogrammetry Analyst I	\$115
Casey Chin	CAD/LiDAR/Photogrammetry Analyst I	\$115
Reagan O'Brien	CAD/LiDAR/Photogrammetry Analyst I	\$115
Luann Tomlinson	CAD/LiDAR/Photogrammetry Analyst I	\$115
Jemper Marvin	CAD/LiDAR/Photogrammetry Analyst I	\$115
Daniel Monsanto	1-Person sUAS Survey Crew (Pilot)	\$155
Chuck Oakey	1-Person sUAS Survey Crew (Pilot)	\$155
Brian Rowe	1-Person sUAS Survey Crew (Pilot)	\$155
Cameron Rodriguez	1-Person sUAS Survey Crew (Pilot)	\$155
Navarette, Jeffrey	1-Person sUAS Survey Crew (Pilot)	\$155

# FEE SCHEDULE



## Fee Schedule

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Joel Paulson, PLS, GISP	Director, Survey	\$235
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Brian Rowe	1-Person sUAS Survey Crew (Pilot)	\$155
Cameron Rodriguez	1-Person sUAS Survey Crew (Pilot)	\$155
Navarette, Jeffrey	1-Person sUAS Survey Crew (Pilot)	\$155

**MASTER AGREEMENT FOR  
UTILITIES HYDRAULIC MODELING SERVICES  
BURNS & MCDONNELL WESTERN ENTERPRISES, INC.**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of June, 2025, but effective July 1, 2025, by and between the City of Carlsbad, California, a municipal corporation, ("City"), and Burns & McDonnell Western Enterprises, Inc., a California corporation ("Contractor").

**RECITALS**

- A. City requires the professional services of a consultant that is experienced in utilities hydraulic modeling services.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to utilities hydraulic modeling.
- D. Contractor has submitted a proposal to the city responsive to Request for Qualifications RFQ25-3437CA and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, City and Contractor agree as follows:

**1. SCOPE OF WORK**

City retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A", which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective for a period of three (3) years from July 1, 2025, through June 30, 2028. The City Manager may amend the Agreement to extend it for two (2) additional one (1) year(s) periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, City needs, and appropriation of funds by the City Council. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by City and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the City Manager or the Division Director ("Director") as authorized by the City Manager. The City Manager or Director will give allowance for

documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight on the part of Contractor, or delays caused by City inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed five hundred thousand dollars (\$500,000). Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, City shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for City, the City Manager or Director, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

If the City elects to extend the term of the Master Services Agreement, adjustments to the rate schedule may be permitted. Upon receipt of a written request from the Contractor, the City may consider approving a rate schedule increase. Rate schedule increases will be considered for each anniversary of the Agreement effective date after the initial three-year term. An increase to the rate schedule will be calculated based on the proceeding 12-month percentage change in the Consumer Price Index, San Diego Area, for All Urban Customers (CPI-U), as reported by the Bureau of Labor Statistics or 5.0%, whichever is lower. If the CPI-U is a negative number, then the rate schedule will not be adjusted for that year. The Contractor must submit a request and justification to increase the rate schedule at least sixty days prior to the anniversary of the effective date, assuming the City opt to extend the Master Services Agreement. The justification accompanying the written request should detail the rationale for the requested adjustment, and the requested adjustment amount, supported by relevant documentation (e.g., CPI-U or 5.0%, whichever is less). Approval of rate schedule increase by the City must be documented in an amendment to the Agreement.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California

Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize the Owner's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. The Contractor is required to create a free web-based Procore user account(s) and utilize web-based training / tutorials (as needed) to become familiar with the system. Unless the Engineer approves otherwise, the Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. The Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of the Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that the Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, RFIs, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

## **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of City. Contractor will be under control of City only as to the result to be accomplished, but will consult with City as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of City for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. City will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. City will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify City within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which City may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At the City's election, City may deduct the indemnification amount from any balance owing to Contractor.

**9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

**10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of City. If Contractor subcontracts any of the Services, Contractor will be fully responsible to City for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and City. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by City.

**11. OTHER CONTRACTORS**

The City reserves the right to employ other Contractors in connection with the Services.

**12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by the City), indemnify, and hold harmless the City and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation program is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

**13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current



Best's Key Rating of not less than "A-:VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

13.1 Coverages and Limits. Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability (CGL) Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to City's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 The City will be named as an additional insured on Commercial General Liability which shall provide primary coverage to the City.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to City sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to City's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to City.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then City will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by City to obtain or maintain insurance and City may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. City reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

14. **BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

15. **ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

16. **OWNERSHIP OF DOCUMENTS**

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of City. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to City. Contractor will have the right to make one (1) copy of the work product for Contractor's records.

17. **COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in City and Contractor relinquishes all claims to the copyrights in favor of City.

18. **NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of City and on behalf of Contractor under this Agreement are:

<u>For City:</u>	
Name	<u>Eleida Felix Yackel</u>
Title	<u>Senior Contract Administrator</u>
Dept	<u>Public Works/ Contract Admin</u>
	<u>CITY OF CARLSBAD</u>
Address	<u>1635 Faraday Ave.</u>
	<u>Carlsbad, CA 92008</u>

<u>For Contractor:</u>	
Name	<u>Stephen Kane</u>
Title	<u>Vice President</u>
Address	<u>145 South State College Blvd.</u>
	<u>Suite 600</u>
Phone	<u>714 264 7333</u>
Email	<u>SKANE@BURNSMCD.COM</u>

Phone 442-339-2767

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

**19. GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or City will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, City may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If City decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, City may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by City and all work in progress to City at the address contained in this Agreement. City will make a determination of fact based upon the work product delivered to City and of the percentage of work that Contractor has performed which is

usable and of worth to City in having the Agreement completed. Based upon that finding City will determine the final payment of the Agreement.

City may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to City. In the event of termination of this Agreement by either party and upon request of City, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to City. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. City will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, City will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any Agreement claim submitted to City must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to City, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If City seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon City and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of City, which shall not be unreasonably withheld.

**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the City and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract, and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}

CONTRACTOR  
BURNS & MCDONNELL WESTERN  
ENTERPRISES, INC., a California  
corporation

CITY OF CARLSBAD, a municipal  
corporation of the State of California

By: Stephen J. Kane, Vice President  
(sign here)

By: \_\_\_\_\_  
Keith Blackburn, Mayor

Stephen J. Kane, Vice President  
(print name/title)

ATTEST:  
SHERRY FREISINGER, City Clerk

By: Jenna F. Pukach (CFO)  
(sign here)

By: \_\_\_\_\_  
Faviola Medina,  
Director of Constituent & Clerk Services

Jenna F. Pukach, CFO  
(print name/title)

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

**Group A**  
Chairman,  
President, **or**  
Vice-President

**Group B**  
Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, City Attorney

BY: Cindie K. McMahon

**EXHIBIT A****SCOPE OF SERVICES AND FEES**

Perform a variety of tasks related to utilities hydraulic modeling services, as outlined in the individual Project Task Descriptions and Fee Allotments (PTD&FA), including but not limited to the following:

- A. Water Supply and Demand Projections.
- B. Model Data Gap Analysis.
- C. Pressure Zone Analysis.
- D. Water Quality Modeling.
- E. Water System Shutdown Impact Analysis.
- F. Fire Flow Capacity Evaluation.
- G. Sewer Capacity Evaluation.
- H. Water/Recycled Water/Sewer Hydraulic Model Maintenance, Calibration and Support.

Requests for work not listed above must be contracted under separate agreement.

## ATTACHMENT B - MASTER SERVICES AGREEMENT RATE SCHEDULE

Burns &amp; McDonnell Western Enterprises, Inc.

Prices Valid Through Terms of Engagement

## STAFF

	NAME	TITLE	HOURLY RATE (\$/hr)
1	Michael Lehrburger	Associate Engineer - 3	322
2	Mitchell Bailey	Staff Engineer - 2	250
3	Beth O'Brien	Senior Engineer - 1	286
4	Audrey Keightley	Senior Engineer - 1	286
5	Ty Wall	Senior Engineer - 1	286
6	Sydney Hope	Staff Engineer - 2	250
7	Paul Ward	Senior Engineer - 2	308
8	Morgan Wetz	Staff Engineer - 1	228
9	David Ecklund	Senior Engineer - 1	286
10	Cory Kissner	Assistant Engineer - 3	201
11	Sasa Tomic	Associate Engineer - 3	322
12	Annie Cashon	Staff Engineer - 2	250
13	Brian Knadle	Associate Engineer - 1	318
14	Andrew Toth	Senior Engineer - 1	286
15	Kunal Raithatha	Senior Engineer - 1	286
16	Kirk Snell	Associate Engineer - 1	318
17	David Olsen	Senior Engineer - 2	308
18	Kyle LeBrasse	Senior Engineer - 1	286
19	Brett Pugh	Associate Engineer - 2	320
20	Nikole Rachelson	Associate Engineer - 1	318
21	Eimon Smith	Associate Engineer - 1	318
22	Mike Halbur	Associate Engineer - 3	322
23	Jason Schaefer	Associate Engineer - 3	322
24	Haley Morton	Staff Engineer - 2	250

## SUB CONSULTANTS

	NAME/FIRM	TITLE	HOURLY RATE (\$/hr)
1			
2			
3			

## EXPENSES

	DESCRIPTION	COST	% Markup
1	Mileage	At FDC Rate (Currently \$0.67/mile)	0
2	All Subcontractor Costs	At Cost	5
3	Printing and Reproduction	At Cost	0
4	Air Travel	At Cost - Coach Class	0
5	Hotel Lodging	At Cost	0
6	Equipment and Rentals	At Cost	5



**MASTER AGREEMENT FOR  
UTILITIES HYDRAULIC MODELING SERVICES  
HDR ENGINEERING, INC.**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of June, 2025, but effective July 1, 2025, by and between the City of Carlsbad, California, a municipal corporation, ("City"), and HDR Engineering, Inc., a Nebraska corporation ("Contractor").

**RECITALS**

- A. City requires the professional services of a consultant that is experienced in utilities hydraulic modeling services.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to utilities hydraulic modeling.
- D. Contractor has submitted a proposal to the city responsive to Request for Qualifications RFQ25-3437CA and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, City and Contractor agree as follows:

**1. SCOPE OF WORK**

City retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A", which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective for a period of three (3) years from July 1, 2025, through June 30, 2028. The City Manager may amend the Agreement to extend it for two (2) additional one (1) year(s) periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, City needs, and appropriation of funds by the City Council. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by City and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the City Manager or the Division Director ("Director") as authorized by the City Manager. The City Manager or Director will give allowance for

documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight on the part of Contractor, or delays caused by City inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed five hundred thousand dollars (\$500,000). Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, City shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for City, the City Manager or Director, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

If the City elects to extend the term of the Master Services Agreement, adjustments to the rate schedule may be permitted. Upon receipt of a written request from the Contractor, the City may consider approving a rate schedule increase. Rate schedule increases will be considered for each anniversary of the Agreement effective date after the initial three-year term. An increase to the rate schedule will be calculated based on the proceeding 12-month percentage change in the Consumer Price Index, San Diego Area, for All Urban Customers (CPI-U), as reported by the Bureau of Labor Statistics or 5.0%, whichever is lower. If the CPI-U is a negative number, then the rate schedule will not be adjusted for that year. The Contractor must submit a request and justification to increase the rate schedule at least sixty days prior to the anniversary of the effective date, assuming the City opt to extend the Master Services Agreement. The justification accompanying the written request should detail the rationale for the requested adjustment, and the requested adjustment amount, supported by relevant documentation (e.g., CPI-U or 5.0%, whichever is less). Approval of rate schedule increase by the City must be documented in an amendment to the Agreement.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California

Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize the Owner's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. The Contractor is required to create a free web-based Procore user account(s) and utilize web-based training / tutorials (as needed) to become familiar with the system. Unless the Engineer approves otherwise, the Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. The Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of the Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that the Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, RFIs, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

## **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of City. Contractor will be under control of City only as to the result to be accomplished, but will consult with City as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of City for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. City will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. City will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify City within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which City may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At the City's election, City may deduct the indemnification amount from any balance owing to Contractor.

**9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

**10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of City. If Contractor subcontracts any of the Services, Contractor will be fully responsible to City for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and City. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by City.

**11. OTHER CONTRACTORS**

The City reserves the right to employ other Contractors in connection with the Services.

**12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by the City), indemnify, and hold harmless the City and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation program is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

**13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current

Best's Key Rating of not less than "A-:VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

13.1 Coverages and Limits. Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability (CGL) Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to City's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 The City will be named as an additional insured on Commercial General Liability which shall provide primary coverage to the City.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to City sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to City's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to City.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then City will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by City to obtain or maintain insurance and City may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. City reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

**14. BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

**15. ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

**16. OWNERSHIP OF DOCUMENTS**

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of City. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to City. Contractor will have the right to make one (1) copy of the work product for Contractor's records.

**17. COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in City and Contractor relinquishes all claims to the copyrights in favor of City.

**18. NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of City and on behalf of Contractor under this Agreement are:

<u>For City:</u>	
Name	<u>Eleida Felix Yackel</u>
Title	<u>Senior Contract Administrator</u>
Dept	<u>Public Works/ Contract Admin</u>
	<u>CITY OF CARLSBAD</u>
Address	<u>1635 Faraday Ave.</u>
	<u>Carlsbad, CA 92008</u>

<u>For Contractor:</u>	
Name	<u>Anna Lantin</u>
Title	<u>Vice President</u>
Address	<u>3220 El Camino Real, Suite 200</u>
	<u>Irvine, CA 92620</u>
Phone	<u>714 730 2300</u>
Email	<u>anna.lantin@hdrinc.com</u>

Phone 442-339-2767

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

**19. GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or City will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, City may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If City decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, City may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by City and all work in progress to City at the address contained in this Agreement. City will make a determination of fact based upon the work product delivered to City and of the percentage of work that Contractor has performed which is

usable and of worth to City in having the Agreement completed. Based upon that finding City will determine the final payment of the Agreement.

City may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to City. In the event of termination of this Agreement by either party and upon request of City, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to City. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. City will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, City will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any Agreement claim submitted to City must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to City, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If City seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon City and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of City, which shall not be unreasonably withheld.



**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the City and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract, and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}

CONTRACTOR  
HDR ENGINEERING, INC., a Nebraska  
corporation

CITY OF CARLSBAD, a municipal  
corporation of the State of California

By: Anna Lantin  
(sign here)

By: \_\_\_\_\_  
Keith Blackburn, Mayor

Anna Y. Lantin, Vice President  
(print name/title)

ATTEST:

SHERRY FREISINGER, City Clerk

By: \_\_\_\_\_  
(sign here)

By: \_\_\_\_\_  
Faviola Medina,  
Director of Constituent & Clerk Services

\_\_\_\_\_  
(print name/title)

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

**Group A**  
Chairman,  
President, **or**  
Vice-President

**Group B**  
Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, City Attorney

BY: Cindie K. McMahon

**EXHIBIT A****SCOPE OF SERVICES AND FEES**

Perform a variety of tasks related to utilities hydraulic modeling services, as outlined in the individual Project Task Descriptions and Fee Allotments (PTD&FA), including but not limited to the following:

- A. Water Supply and Demand Projections.
- B. Model Data Gap Analysis.
- C. Pressure Zone Analysis.
- D. Water Quality Modeling.
- E. Water System Shutdown Impact Analysis.
- F. Fire Flow Capacity Evaluation.
- G. Sewer Capacity Evaluation.
- H. Water/Recycled Water/Sewer Hydraulic Model Maintenance, Calibration and Support.

Requests for work not listed above must be contracted under separate agreement.

**Discipline 13: Utilities Hydraulic Modeling****ATTACHMENT B-MASTER SERVICES AGREEMENT RATE SCHEDULE**

PRICES VALID THROUGH TERM OF AGREEMENT

STAFF			
	NAME	TITLE	HOURLY RATE
1.	Joel Engleson	Contract Manager	\$285
2.	Dean Gipson	Principal-in-Charge	\$398
3.	Scott Humphrey	Quality Manager	\$385
4.	Leanne Hammond	Senior Technical Expert	\$395
5.	Amy Omae	Senior Engineer II	\$375
6.	Stephen Beppler	Senior Engineer I	\$350
7.	TBD	Project Engineer III	\$275
8.	Alice Wang	Project Engineer II	\$230
9.	TBD	Project Engineer I	\$215
10.	Hadley Habeck	Staff Engineer III	\$200
11.	Kanchan Joshi	Staff Engineer II	\$185
12.	Elisa Rivera	Staff Engineer I	\$155
13.	Anders Burvall	GIS Analyst II	\$225
14.	Sharon Jacob	GIS Analyst I	\$140
15.	Katherine Murray	Document Specialist	\$140
16.	Carmen Sandoval	Accountant	\$160
17.	Chelsea Feller	Project Coordinator	\$130
18.	TBD	Intern	\$110

SUBCONSULTANTS			
	NAME/FIRM	TITLE	HOURLY RATE
1.	N/A	N/A	N/A

EXPENSES			
	DESCRIPTION	COST	% MARKUP
1.	Mileage	\$0.67 per mile, or as permitted by the IRS	5%
2.	Printing - B&W 8.5 x 11	\$0.05 per sheet	5%
3.	Printing - Color 8.5 x 11	\$0.15 per sheet	5%
4.	Mailing	at cost	5%

**MASTER AGREEMENT FOR  
UTILITIES HYDRAULIC MODELING SERVICES  
KENNEDY/JENKS CONSULTANTS, INC.**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of June, 2025, but effective July 1, 2025, by and between the City of Carlsbad, California, a municipal corporation, ("City"), and Kennedy/Jenks Consultants, Inc., a California corporation ("Contractor").

**RECITALS**

- A. City requires the professional services of a consultant that is experienced in utilities hydraulic modeling services.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to utilities hydraulic modeling.
- D. Contractor has submitted a proposal to the city responsive to Request for Qualifications RFQ25-3437CA and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, City and Contractor agree as follows:

**1. SCOPE OF WORK**

City retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A", which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective for a period of three (3) years from July 1, 2025, through June 30, 2028. The City Manager may amend the Agreement to extend it for two (2) additional one (1) year(s) periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, City needs, and appropriation of funds by the City Council. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by City and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the City Manager or the Division Director ("Director") as authorized by the City Manager. The City Manager or Director will give allowance for

documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight on the part of Contractor, or delays caused by City inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed five hundred thousand dollars (\$500,000). Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, City shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for City, the City Manager or Director, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

If the City elects to extend the term of the Master Services Agreement, adjustments to the rate schedule may be permitted. Upon receipt of a written request from the Contractor, the City may consider approving a rate schedule increase. Rate schedule increases will be considered for each anniversary of the Agreement effective date after the initial three-year term. An increase to the rate schedule will be calculated based on the proceeding 12-month percentage change in the Consumer Price Index, San Diego Area, for All Urban Customers (CPI-U), as reported by the Bureau of Labor Statistics or 5.0%, whichever is lower. If the CPI-U is a negative number, then the rate schedule will not be adjusted for that year. The Contractor must submit a request and justification to increase the rate schedule at least sixty days prior to the anniversary of the effective date, assuming the City opt to extend the Master Services Agreement. The justification accompanying the written request should detail the rationale for the requested adjustment, and the requested adjustment amount, supported by relevant documentation (e.g., CPI-U or 5.0%, whichever is less). Approval of rate schedule increase by the City must be documented in an amendment to the Agreement.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California

Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize the Owner's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. The Contractor is required to create a free web-based Procore user account(s) and utilize web-based training / tutorials (as needed) to become familiar with the system. Unless the Engineer approves otherwise, the Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. The Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of the Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that the Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, RFIs, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

## **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of City. Contractor will be under control of City only as to the result to be accomplished, but will consult with City as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of City for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. City will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. City will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify City within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which City may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At the City's election, City may deduct the indemnification amount from any balance owing to Contractor.

**9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

**10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of City. If Contractor subcontracts any of the Services, Contractor will be fully responsible to City for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and City. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by City.

**11. OTHER CONTRACTORS**

The City reserves the right to employ other Contractors in connection with the Services.

**12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by the City), indemnify, and hold harmless the City and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation program is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

**13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current



Best's Key Rating of not less than "A-:VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

13.1 Coverages and Limits. Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability (CGL) Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to City's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 The City will be named as an additional insured on Commercial General Liability which shall provide primary coverage to the City.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to City sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to City's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to City.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then City will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by City to obtain or maintain insurance and City may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. City reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

**14. BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

**15. ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

**16. OWNERSHIP OF DOCUMENTS**

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of City. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to City. Contractor will have the right to make one (1) copy of the work product for Contractor's records.

**17. COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in City and Contractor relinquishes all claims to the copyrights in favor of City.

**18. NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of City and on behalf of Contractor under this Agreement are:

<u>For City:</u>	
Name	<u>Eleida Felix Yackel</u>
Title	<u>Senior Contract Administrator</u>
Dept	<u>Public Works/ Contract Admin</u>
	<u>CITY OF CARLSBAD</u>
Address	<u>1635 Faraday Ave.</u>
	<u>Carlsbad, CA 92008</u>

<u>For Contractor:</u>	
Name	<u>Paul Chau</u>
Title	<u>Vice President</u>
Address	<u>35 N. Lake Ave. Ste. 550</u>
	<u>Pasadena, CA 91101</u>
Phone	<u>626-568-4311</u>
Email	<u>paulchau@kennedyjenks.com</u>

Phone 442-339-2767

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

**19. GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or City will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, City may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If City decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, City may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by City and all work in progress to City at the address contained in this Agreement. City will make a determination of fact based upon the work product delivered to City and of the percentage of work that Contractor has performed which is

usable and of worth to City in having the Agreement completed. Based upon that finding City will determine the final payment of the Agreement.

City may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to City. In the event of termination of this Agreement by either party and upon request of City, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to City. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. City will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, City will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any Agreement claim submitted to City must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to City, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If City seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon City and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of City, which shall not be unreasonably withheld.

**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the City and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract, and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}

CONTRACTOR  
KENNEDY/JENKS CONSULTANTS, INC., a  
California corporation

CITY OF CARLSBAD, a municipal  
corporation of the State of California

By:

Paul Chau

(sign here)

Paul Chau, Vice President

(print name/title)

By:

(sign here)

(print name/title)

By:

Keith Blackburn, Mayor

ATTEST:

SHERRY FREISINGER, City Clerk

By:

Faviola Medina,  
Director of Constituent & Clerk Services

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation,  
Agreement must be signed by one corporate officer from each of the following two groups:

**Group A**  
Chairman,  
President, **or**  
Vice-President

**Group B**  
Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise,** the corporation **must** attach a resolution certified by the secretary or assistant secretary  
under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, City Attorney

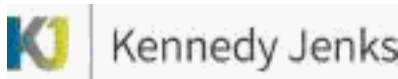
BY: Cindie K. McMahon

**EXHIBIT A****SCOPE OF SERVICES AND FEES**

Perform a variety of tasks related to utilities hydraulic modeling services, as outlined in the individual Project Task Descriptions and Fee Allotments (PTD&FA), including but not limited to the following:

- A. Water Supply and Demand Projections.
- B. Model Data Gap Analysis.
- C. Pressure Zone Analysis.
- D. Water Quality Modeling.
- E. Water System Shutdown Impact Analysis.
- F. Fire Flow Capacity Evaluation.
- G. Sewer Capacity Evaluation.
- H. Water/Recycled Water/Sewer Hydraulic Model Maintenance, Calibration and Support.

Requests for work not listed above must be contracted under separate agreement.



**Client/Address:** City of Carlsbad  
1635 Faraday Avenue  
Carlsbad, CA 92008

**Contract/Proposal:** Master Services Agreement for Consultants (RFQ25-3437CA)

**Custom Schedule of Charges**

**Date:** December 31, 2024

**PERSONNEL COMPENSATION**

Classification	Hourly Rate
Engineer-Scientist-Specialist 1 .....	\$160
Engineer-Scientist-Specialist 2 .....	\$200
Engineer-Scientist-Specialist 3 .....	\$225
Engineer-Scientist-Specialist 4 .....	\$245
Engineer-Scientist-Specialist 5 .....	\$265
Engineer-Scientist-Specialist 6 .....	\$290
Engineer-Scientist-Specialist 7 .....	\$320
Engineer-Scientist-Specialist 8 .....	\$340
Engineer-Scientist-Specialist 9 .....	\$355
Senior CAD-Designer .....	\$210
CAD-Designer .....	\$191
Senior CAD-Technician .....	\$175
CAD-Technician .....	\$155
Project Assistant .....	\$155
Administrative Assistant .....	\$140
Aide.....	\$111

**Direct Expenses**

Reimbursement for direct expenses, as listed below, incurred in connection with the work, will be at cost plus ten percent for items such as:

- a. Maps, photographs, 3rd party reproductions, 3rd party printing, equipment rental, and special supplies related to the work.
- b. Consultants, soils engineers, surveyors, contractors, and other outside services.
- c. Rented vehicles, local public transportation and taxis, travel and subsistence.
- d. Project specific telecommunications and delivery charges.
- e. Special fees, insurance, permits, and licenses applicable to the work.
- f. Outside computer processing, computation, and proprietary programs purchased for the work.

Reimbursement for vehicles used in connection with the work will be at the federally approved mileage rates or at a negotiated monthly rate.

If prevailing wage rates apply, the above billing rates will be adjusted as appropriate.

Overtime for non-exempt employees will be billed at one and a half times the Hourly Rates specified above.

Rates for professional staff for legal proceedings or as expert witnesses will be at rates one and one-half times the Hourly Rates specified above.

Excise and gross receipts taxes, if any, will be added as a direct expense.



**MASTER AGREEMENT FOR UTILITY LOCATING/POTHOLING SERVICES  
AIRX UTILITY SURVEYORS, INC.**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day June, 2025, but effective July 1, 2025, by and between the City of Carlsbad, California, a municipal corporation, ("City"), and AirX Utility Surveyors, Inc., a California corporation, ("Contractor").

**RECITALS**

- A. City requires the professional services of a consultant that is experienced in utility locating/potholing services.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to utility locating/potholing services.
- D. Contractor has submitted a proposal to the city responsive to Request for Qualifications RFQ25-3437CA and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, City and Contractor agree as follows:

**1. SCOPE OF WORK**

City retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A", which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective for a period of three (3) years from July 1, 2025, through June 30, 2028. The City Manager may amend the Agreement to extend it for two (2) additional one (1) year(s) periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, City needs, and appropriation of funds by the City Council. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by City and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the City Manager or the Division Director ("Director") as authorized by the City Manager. The City Manager or Director will give allowance for documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight

on the part of Contractor, or delays caused by City inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed four hundred thousand dollars (\$400,000). Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, City shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for City, the City Manager or Director, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

If the City elects to extend the term of the Master Services Agreement, adjustments to the rate schedule may be permitted. Upon receipt of a written request from the Contractor, the City may consider approving a rate schedule increase. Rate schedule increases will be considered for each anniversary of the Agreement effective date after the initial three-year term. An increase to the rate schedule will be calculated based on the proceeding 12-month percentage change in the Consumer Price Index, San Diego Area, for All Urban Customers (CPI-U), as reported by the Bureau of Labor Statistics or 5.0%, whichever is lower. If the CPI-U is a negative number, then the rate schedule will not be adjusted for that year. The Contractor must submit a request and justification to increase the rate schedule at least sixty days prior to the anniversary of the effective date, assuming the City opt to extend the Master Services Agreement. The justification accompanying the written request should detail the rationale for the requested adjustment, and the requested adjustment amount, supported by relevant documentation (e.g., CPI-U or 5.0%, whichever is less). Approval of rate schedule increase by the City must be documented in an amendment to the Agreement.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

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the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize the Owner's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. The Contractor is required to create a free web-based Procore user account(s) and utilize web-based training / tutorials (as needed) to become familiar with the system. Unless the Engineer approves otherwise, the Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. The Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of the Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that the Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, RFIs, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

## **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of City. Contractor will be under control of City only as to the result to be accomplished, but will consult with City as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of City for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. City will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. City will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify City within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which City may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At the City's election, City may deduct the indemnification amount from any balance owing to Contractor.

**9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

**10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of City. If Contractor subcontracts any of the Services, Contractor will be fully responsible to City for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and City. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by City.

**11. OTHER CONTRACTORS**

The City reserves the right to employ other Contractors in connection with the Services.

**12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by the City), indemnify, and hold harmless the City and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation program is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

**13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current

Best's Key Rating of not less than "A-:VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

13.1 Coverages and Limits. Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability (CGL) Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to City's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 The City will be named as an additional insured on Commercial General Liability which shall provide primary coverage to the City.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to City sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to City's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to City.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then City will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by City to obtain or maintain insurance and City may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. City reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

14. **BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

15. **ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

16. **OWNERSHIP OF DOCUMENTS**

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of City. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to City. Contractor will have the right to make one (1) copy of the work product for Contractor's records.

17. **COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in City and Contractor relinquishes all claims to the copyrights in favor of City.

18. **NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of City and on behalf of Contractor under this Agreement are:

<u>For City:</u>	
Name	<u>Eleida Felix Yackel</u>
Title	<u>Senior Contract Administrator</u>
Dept	<u>Public Works/ Contract Admin</u>
	<u>CITY OF CARLSBAD</u>
Address	<u>1635 Faraday Ave.</u>
	<u>Carlsbad, CA 92008</u>

<u>For Contractor:</u>	
Name	<u>Jennifer Harris</u>
Title	<u>CEO / President</u>
Address	<u>785 East Mission Rd, Suite 100</u>
	<u>San Marcos, CA 92069</u>
Phone	<u>619-710-3124</u>
Email	<u>jharris@airxus.com</u>

Phone 442-339-2767

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

**19. GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or City will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, City may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If City decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, City may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by City and all work in progress to City at the address contained in this Agreement. City will make a determination of fact based upon the work product delivered to City and of the percentage of work that Contractor has performed which is

usable and of worth to City in having the Agreement completed. Based upon that finding City will determine the final payment of the Agreement.

City may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to City. In the event of termination of this Agreement by either party and upon request of City, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to City. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. City will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, City will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any Agreement claim submitted to City must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to City, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If City seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon City and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of City, which shall not be unreasonably withheld.



**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the City and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract, and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}

CONTRACTOR  
AIRX UTILITY SURVEYORS, INC., a California  
corporation

CITY OF CARLSBAD, a municipal  
corporation of the State of California

By:



(sign here)

Jennifer Emily Harris, President

(print name/title)

By:



(sign here)

Ivan Fox, Secretary

(print name/title)

By:

Keith Blackburn, Mayor

ATTEST:

SHERRY FREISINGER, City Clerk

By:

Faviola Medina,  
Director of Constituent & Clerk Services

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

**Group A**

Chairman,  
President, **or**  
Vice-President

**Group B**

Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, City Attorney

BY: Cindie K. McMahon

**EXHIBIT A****SCOPE OF SERVICES AND FEES**

Perform a variety of utility locating and potholing tasks as outlined in individual Project Task Descriptions & Fee Allotments (PTD&FA), related to the following:

- A. Subsurface Utility Potholing and Locating.
- B. Ground Penetrating Radar Services.
- C. Utility Research / Documentation.
- D. Field Determination/ Documentation.

Requests for work not listed above must be contracted under separate agreement.


**AIRX UTILITY SURVEYORS, INC.**
**WBE - WOSB - SB - SLBE / LICENSE #830790 A, C31**

## Attachment B – Master Service Agreement Rate Schedule

	<u>NAME</u>	<u>TITLE</u>	<u>HOURLY RATE</u>
1.	Gabriel Mercado	Operations Manager	\$205/hr
2.	Rodrigo Rodriguez/Jose Gonzalez	Project Manager	\$205/hr
3.	Salvador Silva	Superintendent	\$200/hr
4.	Clinton Boogaard	Plans/Permits	\$130/hr
5.	Kara Hoover	Admin/Certified Payroll	\$125/hr

### Locating (1 man crew):

	<u>DESCRIPTION</u>	<u>RATE</u>
1.	Electromagnetic Locating	\$225/hr
2.	Ground Penetrating Radar (GPR)	\$275/hr
3.	Push Rod Locating	\$250/hr
4.	Vault/Manhole Dips	\$170/hr

### Potholing (2--Man Crew with T7 Rival, 7 yard truck, and Support Truck)

	<u>DESCRIPTION</u>	<u>RATE</u>
1.	Pothole Crew (Per Regular Hour) Includes: Cold Mix or Rapid Set Patches and Class II Base for Backfill, Standard Traffic Control Set-Up (up to a 500ft Lane Closure Taper)*. Average 4 Potholes Per Day.	\$540/hr
2.	Pothole crew (Per Premium Hour) Includes:	\$760/hr



# AIRX UTILITY SURVEYORS, INC.

WBE - WOSB - SB - SLBE / LICENSE #830790 A, C31

	Cold Mix or Rapid Set Patches and Class II Base for Backfill, Standard Traffic Control Set-Up Included (up to a 500ft Lane Closure Taper)*. Average 4 Potholes Per Day.	
3.	Hotpatch: Standard 1ft by 1ft Patch.	\$205/ea
4.	Hotpatch: Grind and Overlay Up To a 2ft by 2ft Square, Per Patch (Standard Traffic Control Set-Up Included, up to a 500ft Lane Closure Taper)*. 4-Man Crew. Average 7 per day.	\$7,300/day
5.	Slurry Backfill: As Required Per City of Carlsbad Standards (Per Pothole).	\$500/ea
6.	Traffic Control Plans	\$190/sheet
7.	Traffic Control Plans - Engineered Stamped (Per Sheet).	\$470/sheet
8.	Large Traffic Control Set-Up (Multiple Lane Closures, Intersections, Detours).	\$1,400/day
9.	Nightwork Traffic Control Set-Ups.	\$2,100/night
10.	Flagman Service (per hour/Per Crew) Includes 2 Flagman, and Standard Flagging Set-Up.	\$320/hr per crew
11.	Report Drafting per hour (Averaging 30 Minutes Per Pothole, Deliverable Will Be A PDF Report with Maps & Photos. Copies are available upon request).	\$175/hr
12.	USA Mark-Out & Paint Removal	\$200/hr

\*Standalone rate for Standard Traffic Control setup, up to 500ft lane closure taper is \$800/day

Prices valid through Term of Agreement

**MASTER AGREEMENT FOR UTILITY LOCATING/POTHOLING SERVICES  
GUIDA**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day June, 2025, but effective July 1, 2025, by and between the City of Carlsbad, California, a municipal corporation, ("City"), and GUIDA, a California corporation, ("Contractor").

**RECITALS**

- A. City requires the professional services of a consultant that is experienced in utility locating/potholing services.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to utility locating/potholing services.
- D. Contractor has submitted a proposal to the city responsive to Request for Qualifications RFO25-3437CA and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, City and Contractor agree as follows:

**1. SCOPE OF WORK**

City retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A", which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective for a period of three (3) years from July 1, 2025, through June 30, 2028. The City Manager may amend the Agreement to extend it for two (2) additional one (1) year(s) periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, City needs, and appropriation of funds by the City Council. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by City and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the City Manager or the Division Director ("Director") as authorized by the City Manager. The City Manager or Director will give allowance for documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight

on the part of Contractor, or delays caused by City inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed four hundred thousand dollars (\$400,000). Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, City shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for City, the City Manager or Director, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

If the City elects to extend the term of the Master Services Agreement, adjustments to the rate schedule may be permitted. Upon receipt of a written request from the Contractor, the City may consider approving a rate schedule increase. Rate schedule increases will be considered for each anniversary of the Agreement effective date after the initial three-year term. An increase to the rate schedule will be calculated based on the proceeding 12-month percentage change in the Consumer Price Index, San Diego Area, for All Urban Customers (CPI-U), as reported by the Bureau of Labor Statistics or 5.0%, whichever is lower. If the CPI-U is a negative number, then the rate schedule will not be adjusted for that year. The Contractor must submit a request and justification to increase the rate schedule at least sixty days prior to the anniversary of the effective date, assuming the City opt to extend the Master Services Agreement. The justification accompanying the written request should detail the rationale for the requested adjustment, and the requested adjustment amount, supported by relevant documentation (e.g., CPI-U or 5.0%, whichever is less). Approval of rate schedule increase by the City must be documented in an amendment to the Agreement.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in

the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize the Owner's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. The Contractor is required to create a free web-based Procore user account(s) and utilize web-based training / tutorials (as needed) to become familiar with the system. Unless the Engineer approves otherwise, the Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. The Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of the Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that the Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, RFIs, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

## **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of City. Contractor will be under control of City only as to the result to be accomplished, but will consult with City as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of City for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. City will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. City will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify City within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which City may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At the City's election, City may deduct the indemnification amount from any balance owing to Contractor.



**9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

**10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of City. If Contractor subcontracts any of the Services, Contractor will be fully responsible to City for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and City. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by City.

**11. OTHER CONTRACTORS**

The City reserves the right to employ other Contractors in connection with the Services.

**12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by the City), indemnify, and hold harmless the City and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation program is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

**13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current

Best's Key Rating of not less than "A-:VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

13.1 Coverages and Limits. Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability (CGL) Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to City's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 The City will be named as an additional insured on Commercial General Liability which shall provide primary coverage to the City.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to City sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to City's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to City.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then City will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by City to obtain or maintain insurance and City may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. City reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

14. **BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

15. **ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

16. **OWNERSHIP OF DOCUMENTS**

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of City. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to City. Contractor will have the right to make one (1) copy of the work product for Contractor's records.

17. **COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in City and Contractor relinquishes all claims to the copyrights in favor of City.

18. **NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of City and on behalf of Contractor under this Agreement are:

<u>For City:</u>	
Name	<u>Eleida Felix Yackel</u>
Title	<u>Senior Contract Administrator</u>
Dept	<u>Public Works/ Contract Admin</u>
	<u>CITY OF CARLSBAD</u>
Address	<u>1635 Faraday Ave.</u>
	<u>Carlsbad, CA 92008</u>

<u>For Contractor:</u>	
Name	<u>Tom Pilarski, PLS</u>
Title	<u>Project Manager</u>
Address	<u>220 Commerce, Suite 150</u>
	<u>Irvine, CA 92602</u>
Phone	<u>949-777-2074</u>
Email	<u>tpilarski@guidainc.com</u>

Phone 442-339-2767

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

**19. GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or City will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, City may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If City decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, City may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by City and all work in progress to City at the address contained in this Agreement. City will make a determination of fact based upon the work product delivered to City and of the percentage of work that Contractor has performed which is

usable and of worth to City in having the Agreement completed. Based upon that finding City will determine the final payment of the Agreement.

City may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to City. In the event of termination of this Agreement by either party and upon request of City, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to City. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. City will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, City will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any Agreement claim submitted to City must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to City, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If City seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon City and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of City, which shall not be unreasonably withheld.

**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the City and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract, and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}

CONTRACTOR  
GUIDA, a California corporation

CITY OF CARLSBAD, a municipal  
corporation of the State of California

By: Bernard McNally  
(sign here)

By: \_\_\_\_\_  
Keith Blackburn, Mayor

Bernard McNally, Executive Vice President  
(print name/title)

ATTEST:  
SHERRY FREISINGER, City Clerk

By: \_\_\_\_\_  
(sign here)

By: \_\_\_\_\_  
Faviola Medina,  
Director of Constituent & Clerk Services

\_\_\_\_\_  
(print name/title)

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

**Group A**  
Chairman,  
President, **or**  
Vice-President

**Group B**  
Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, City Attorney

BY: Cindie K. McMahon

**EXHIBIT A**

**SCOPE OF SERVICES AND FEES**

Perform a variety of utility locating and potholing tasks as outlined in individual Project Task Descriptions & Fee Allotments (PTD&FA), related to the following:

- A. Subsurface Utility Potholing and Locating.
- B. Ground Penetrating Radar Services.
- C. Utility Research / Documentation.
- D. Field Determination/ Documentation.

Requests for work not listed above must be contracted under separate agreement.





ATTACHMENT B - MASTER SERVICES AGEREMENT RATE SCHEDULE

Prices valid through the 3-year term of the agreement

14. UTILITY LOCATING/POTHOLING

PRIME CONSULTANT: GUIDA

STAFF NAME	CLASSIFICATION	HOURLY RATE
Bernie McInally, PLS	Survey Principal	\$350.00
Tom Pilarski, PLS	Project Manager	\$300.00
Eddie Brisendine, PLS	SUE Office Lead	\$300.00
Tim Fettig, PLS	SUE Field Lead	\$295.00
Remote Sensing lead	Remote Sensing lead	\$265.00
QA/QC Manager	QA/QC Manager	\$285.00
Sr. Project Surveyor	Sr. Project Surveyor	\$235.00
Project Surveyor	Project Surveyor	\$210.00
SUE Supervisor	SUE Supervisor	\$210.00
Sr. Survey Analyst	Sr. Survey Analyst	\$190.00
Survey Analyst	Survey Analyst	\$170.00
SUE CAD Technician	SUE Technician	\$150.00
Survey/CAD Technician	Survey/CAD Technician	\$150.00
Project Coordinator	Project Coordinator	\$150.00
1-Man SUE Crew**	1-Man SUE Crew	\$235.00
2-Man SUE Crew**	2-Man SUE Crew	\$410.00
3-Man Survey Crew**	3-Man Survey Crew**	\$530.00
2-Man Survey Crew**	2-Man Survey Crew**	\$415.00
1-Man Survey Crew**	1-Man Survey Crew**	\$250.00
** Denotes Prevailing Wage Classification		

SSUBCONSULTANT: T2 UTILITY ENGINEERS		
STAFF NAME	CLASSIFICATION	HOURLY RATE
Arthur Glen Robinson, PE	Project Director	\$245.00
Senior Project Manager	Senior Project Manager	\$215.00
Project Engineer	Project Engineer	\$190.00
Project Surveyor	Project Surveyor	\$185.00
Project Manager	Project Manager	\$150.00
SUE Manager	SUE Manager	\$145.00
Assistant Project Manager	Assistant Project Manager	\$125.00
CADD Supervisor	CADD Supervisor	\$125.00
SUE Supervisor**	SUE Supervisor	\$130.00
SUE Technician III**	SUE Technician III	\$130.00
SUE Technician II**	SUE Technician II	\$130.00
SUE Technician I**	SUE Technician I	\$130.00
CADD Technician	CADD Technician	\$90.00
Administrative Support	Administrative Support	\$90.00

EXPENSES


DESCRIPTION	ESTIMATED COST	% MARKUP
PRIME CONSULTANT: GUIDA		
Mileage	Current IRS Rate per mile	N/A
Shipping & Deliveries	\$35 Each	10%
Research Reproductions	\$5.00 per Page	N/A
GPR Tow Behind Sled	\$2,200 per Day	N/A
Mobile LiDAR Use Fee	\$1,428 per Day	N/A
Agency Checking\Permit Fees	At Cost plus markup	10%
Preliminary Title Reports	At Cost plus markup	10%
Subconsultant Invoices	At Cost plus markup	10%
SUBCONSULTANT: T2 UTILITY ENGINEERS		
Encroachment and Traffic Permits	At cost plus markup	10%
Traffic Control Plans - Engineer Stamped	\$800 per sheet	N/A
Subcontractors (Asphalt, Traffic Control, etc.)	At cost plus markup	10%
Miscellaneous Materials/Expenses such as restoration, hauling/dumping, etc.	At cost plus markup	10%

NOTES

- OVERTIME

Straight time will be billed for all work performed on-site up to 8 hours each day, Monday through Friday. Overtime (1.5x) will begin after 8 hours, Monday through Friday and on Saturdays. Double time (2x) will begin after 12 hours and on Sundays and holidays.
- ESCALATION

All rates shown will be held fixed for the initial 3-year term of the agreement. If the agreement is extended past the 3-year term, escalation will be applied to the rates shown in accordance with Consumer Price Index for San Diego or 5%, whichever is less.

Signature of Authorized Official: 

Name (print): Bernie McInally, PLS

Title: Executive Vice President

Date: 12/31/2024

**MASTER AGREEMENT FOR AS-NEEDED VERTICAL CONSTRUCTION MANAGEMENT AND INSPECTION  
CPM PARTNERS, INC.**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2025, but effective August 18, 2025, by and between the City of Carlsbad, California, a municipal corporation ("City"), and CPM Partners, Inc., a California corporation ("Contractor").

**RECITALS**

- A. City requires the professional services of a consultant that is experienced in construction management and inspection for vertical projects.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to as-needed vertical construction management and inspection.
- D. Contractor has submitted a proposal to the city responsive to Request for Qualifications RFQ25-3671CMI and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, City and Contractor agree as follows:

**1. SCOPE OF WORK**

City retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A," which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area, and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective from the date first above written to Aug. 17, 2028. The City Manager may amend the Agreement to extend it for two (2) additional one (1) year periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, City needs, and appropriation of funds by the City Council. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by City and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the City Manager or the Division Director

("Director") as authorized by the City Manager. The City Manager or Director will give allowance for documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight on the part of Contractor, or delays caused by City inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed eight hundred thousand dollars (\$800,000) per Agreement year. If the City extends the Agreement pursuant to Section 3, the costs of services may increase by a maximum of 2% per Agreement year, if agreed to by both parties. Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A." Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, City shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for City, the City Manager or Director, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize City's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. Contractor is required to create a free web-based Procore user account(s) and utilize web-based training/tutorials (as needed) to become familiar with the system. Unless the City

Engineer approves otherwise, Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on projects. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. Contractor is responsible for attaining Contractor's own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to Contractor for use of Procore.

It is recommended that Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, requests for information, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

#### **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of City. Contractor will be under the control of City only as to the result to be accomplished, but will consult with City as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of City for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. City will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. City will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify City within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which City may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At the City's election, City may deduct the indemnification amount from any balance owing to Contractor.

#### **9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

#### **10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of City. If Contractor subcontracts any of the Services, Contractor will be fully responsible to City for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and City. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement

applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by City.

#### **11. OTHER CONTRACTORS**

The City reserves the right to employ other Contractors in connection with the Services.

#### **12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by the City), indemnify, and hold harmless the City and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorney's fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation program is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

#### **13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current Best's Key Rating of not less than "A-:VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

**13.1 Coverages and Limits.** Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability (CGL) Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to City's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 The City will be named as an additional insured on Commercial General Liability which shall provide primary coverage to the City.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to City sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to City's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to City.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then City will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by City to obtain or maintain insurance and City may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. City reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

14. **BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

15. **ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

16. **OWNERSHIP OF DOCUMENTS**

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of City. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to City. Contractor will have the right to make one (1) copy of the work product for Contractor's records.

17. **COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in City and Contractor relinquishes all claims to the copyrights in favor of City.

18. **NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of City and on behalf of Contractor under this Agreement are:

For City:

Name	Jennifer Chapman
Title	Senior Contract Administrator
Dept	Public Works/CM&I
	CITY OF CARLSBAD
Address	1635 Faraday Ave.
	Carlsbad, CA 92008
Phone	442-339-2780

For Contractor:

Name	Alex Janecek
Title	Vice President
Address	523 Encinitas Blvd., #200
	Encinitas, CA 92024
Phone	310-989-3104
Email	<a href="mailto:alex@cpm-partners.com">alex@cpm-partners.com</a>

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

19. **GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.



Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services, the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or City will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, City may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If City decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, City may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by City and all work in progress to City at the address contained in this Agreement. City will make a determination of fact based upon the work product delivered to City and of the percentage of work that Contractor has performed which is usable and of worth to City in having the Agreement completed. Based upon that finding City will determine the final payment of the Agreement.

City may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to City. In the event of termination of this Agreement by either party and upon request of City, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to City. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. City will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award



or making of this Agreement. For breach or violation of this warranty, City will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any Agreement claim submitted to City must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to City, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act, applies to this Agreement and provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If City seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon City and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of City, which shall not be unreasonably withheld.

**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the City and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely

responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

### 31. **AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

CONTRACTOR  
CPM Partners, Inc., a California corporation

CITY OF CARLSBAD, a municipal corporation of  
the State of California

By:

By:

Maribel Janecek

(sign here)

KEITH BLACKBURN, Mayor

Maribel Janecek, President & CFO

(print name/title)

ATTEST:

SHERRY FREISINGER, City Clerk

By:

By:

(sign here)

Director of Constituent & Clerk Services

(print name/title)

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

Group A  
Chairman,  
President, **or**  
Vice-President

Group B  
Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, City Attorney

BY: Cindie K. McMahon

**EXHIBIT A**

**SCOPE OF SERVICES AND FEES**

Contractor shall perform as-needed vertical construction management and inspection services in accordance with the city's Request for Qualifications (RFQ25-3671CMI) dated March 5, 2025. The agreed upon billing rates for services outlined in said proposal are attached hereto.

All hours billed will be paid at a straight time rate; no overtime billing allowed.

Hours billed on a non-contractor workday must receive prior authorization by city staff.

Rates are inclusive of equipment, vehicle, mileage, laptop computers with wireless connections, cell phone, insurance, travel time, etc.

## Exhibit B - Rate Schedule

## CPM Partners

City of Carlsbad, RFQ25-3671CMI

Prices valid through initial Term of Agreement

## CPM Partners, Inc

	<u>NAME</u>	<u>TITLE</u>	<u>HOURLY RATE</u>
1	Alex Janecek, PE, CCM, QSD	RE, Sr. Scheduler, Sr. Claims	\$240.00
2	Gordon Costa, PE	Lead Scheduler, Claims	\$264.00
3	Ahmad Rafiq, PE	RE, Inspector	\$233.00
4	Pedro Aguilar	ARE, Inspector	\$224.00
5	Rafael Perez	OE, Inspector	\$224.00
6	Agustin Salinas, PE	OE, Inspector	\$165.00
7	Wendy Casdorff	Project Controls, Admin	\$133.00
8	Ylonda Miles	Admin / Document Control	\$120.00
9	Ryan Priestman, PMP	Scheduler, Claims Support	\$181.00
10	Mellissa Leyendecker	OE, Admin	\$134.00
11	Erick Strickland	Constructability Reviewer	\$212.00
12			

## Sub-Consultants

	<u>NAME/FIRM</u>	<u>TITLE</u>	<u>HOURLY RATE</u>
1	Gannett Fleming, Inc.		Attached
2	Kleinfelder Construction Svcs		Attached
3	La Salle Solutions		Attached
4	New City Consulting		Attached
5	NOVA Services		Attached

## Expenses

	<u>DESCRIPTION</u>	<u>COST</u>	<u>% MARKUP</u>
1	n/a		
2			
3			
4			
5			

**Exhibit B - Rate Schedule****Gannett Fleming**

City of Carlsbad, RFQ25-3671CMI

Prices valid through initial Term of Agreement

<b>Gannett Fleming Revision 01</b>			
	<b><u>NAME</u></b>	<b><u>TITLE</u></b>	<b><u>HOURLY RATE</u></b>
1	David Toschak (GAN)	Resident Engineer	\$216.62
2	David Cooper (GAN)	Resident Engineer	\$281.86
3	*Mike Broadwater (GAN)	SWPPP Inspector	\$232.95
4	*John Tonarely (GAN)	Inspector	\$232.95
5	*David Shepherd (GAN)	Inspector	\$199.94
6	Rhodie Lumanog (GAN)	Labor Compliance	\$145.26
7	Jim Gallego (GAN)	Scheduler	\$240.00
9			
10			
11			
12			

<b>Sub-Consultants</b>			
	<b><u>NAME/FIRM</u></b>	<b><u>TITLE</u></b>	<b><u>HOURLY RATE</u></b>
1			
2			
3			
4			
5			

<b>Expenses</b>			
	<b><u>DESCRIPTION</u></b>	<b><u>COST</u></b>	<b><u>% MARKUP</u></b>
1		\$	0%
2			
3			
4			
5			

\* Denotes employees/classifications that are subject to CA prevailing wage. Rates above are day-shift straight-time rates.

**Exhibit B - Rate Schedule****Kleinfelder Construction Services**

City of Carlsbad, RFQ25-3671CMI

Prices valid through initial Term of Agreement

Kleinfelder Construction Services			
	<u>NAME</u>	<u>TITLE</u>	<u>HOURLY RATE</u>
1	Matt Burris, PE, QSD (KCS)	Resident Engineer	\$208.00
2	James Foote (KCS)	ARE/Inspector	\$199.00
3	Claire Fetros (KCS)	ARE/Inspector	\$199.00
4	Brian O'Dell, EIT (KCS)	ARE/Inspector	\$199.00
5	Joe Massie (KCS)	ARE/Inspector	\$199.00
6	Mark Plotnikiewicz, PE, QSD (KCS)	Senior Scheduler	\$260.00
7			

Sub-Consultants			
	<u>NAME/FIRM</u>	<u>TITLE</u>	<u>HOURLY RATE</u>
1			
2			
3			
4			
5			

Expenses			
	<u>DESCRIPTION</u>	<u>COST</u>	<u>% MARKUP</u>
1			0%
2			
3			
4			
5			

**Exhibit B - Rate Schedule****La Salle Solutions LLC**

City of Carlsbad, RFQ25-3671CMI

Prices valid through initial Term of Agreement

La Salle Solutions			
	<u>NAME</u>	<u>TITLE</u>	<u>HOURLY RATE</u>
1	Enrique Castaneda	CM/RE	\$235.00
2	Samuel Virgil	CM/RE	\$235.00
3	Robin Wollen	Construction Inspector	\$235.00
4			
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10			
11			
12			

Sub-Consultants			
	<u>NAME/FIRM</u>	<u>TITLE</u>	<u>HOURLY RATE</u>
1			
2			
3			
4			
5			

Expenses			
	<u>DESCRIPTION</u>	<u>COST</u>	<u>% MARKUP</u>
1			
2			
3			
4			
5			

**Exhibit B - Rate Schedule****New City Consulting**

City of Carlsbad, RFQ25-3671CMI

Prices valid through initial Term of Agreement

New City Consulting			
	<u>NAME</u>	<u>TITLE</u>	<u>HOURLY RATE</u>
1	Patrick Nolan (NEW)	Senior Construction Manager	\$233.00
2	Matthew Horak (NEW)	Construction Manager	\$198.00
3	Mark Brunelle (NEW)	Senior Construction Inspector	\$185.00
4	Lisa Brennan (NEW)	Assistant Construction Manager	\$166.00
5	Jessica Poorman (NEW)	Certified Payroll Compliance	\$130.00
6			
7			
8			
9			
10			
11			
12			

Sub-Consultants			
	<u>NAME/FIRM</u>	<u>TITLE</u>	<u>HOURLY RATE</u>
1			
2			
3			
4			
5			

Expenses			
	<u>DESCRIPTION</u>	<u>COST</u>	<u>% MARKUP</u>
1			
2			
3			
4			
5			



**Exhibit B - Rate Schedule****Nova Services**

City of Carlsbad, RFQ25-3671CMI

Prices valid through initial Term of Agreement

Nova Services			
	<u>NAME</u>	<u>TITLE</u>	<u>HOURLY RATE</u>
1	Tom Canady (Nova)	Principal Engineer	\$240.00
2	Adam Greening (Nova)	Laboratory Manager	\$110.00
3	Simon Sayavanh (Nova)	Special Inspector	\$142.00
4	Morgan Lamb (Nova)	Special Inspector	\$142.00
5	Steve Hamlin (Nova)	Field Technician	\$140.00
6	Brian Steinhauser (Nova)	Field Technician	\$140.00
7			
8			
9			
10			
11			
12			

Sub-Consultants			
	<u>NAME/FIRM</u>	<u>TITLE</u>	<u>HOURLY RATE</u>
1			
2			
3			
4			

Expenses			
	<u>DESCRIPTION</u>	<u>COST</u>	<u>% MARKUP</u>
1	Monthly MetaField Reporting	\$425/month	0%
2	Coring Two Man Crew	\$345/hour	0%
3			
4			
5			

**MASTER AGREEMENT FOR AS-NEEDED VERTICAL CONSTRUCTION MANAGEMENT AND INSPECTION  
NEW CITY CONSULTING, INC.**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2025, but effective August 18, 2025, by and between the City of Carlsbad, California, a municipal corporation ("City"), and New City Consulting, Inc., a California corporation ("Contractor").

**RECITALS**

- A. City requires the professional services of a consultant that is experienced in construction management and inspection for vertical projects.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to as-needed vertical construction management and inspection.
- D. Contractor has submitted a proposal to the city responsive to Request for Qualifications RFQ25-3671CMI and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, City and Contractor agree as follows:

**1. SCOPE OF WORK**

City retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A," which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area, and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective from the date first above written to Aug. 17, 2028. The City Manager may amend the Agreement to extend it for two (2) additional one (1) year periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, City needs, and appropriation of funds by the City Council. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by City and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the City Manager or the Division Director

("Director") as authorized by the City Manager. The City Manager or Director will give allowance for documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight on the part of Contractor, or delays caused by City inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed eight hundred thousand dollars (\$800,000) per Agreement year. If the City extends the Agreement pursuant to Section 3, the costs of services may increase by a maximum of 2% per Agreement year, if agreed to by both parties. Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A." Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, City shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for City, the City Manager or Director, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize City's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. Contractor is required to create a free web-based Procore user account(s) and utilize web-based training/tutorials (as needed) to become familiar with the system. Unless the City

Engineer approves otherwise, Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on projects. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. Contractor is responsible for attaining Contractor's own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to Contractor for use of Procore.

It is recommended that Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, requests for information, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

#### **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of City. Contractor will be under the control of City only as to the result to be accomplished, but will consult with City as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of City for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. City will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. City will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify City within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which City may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At the City's election, City may deduct the indemnification amount from any balance owing to Contractor.

#### **9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

#### **10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of City. If Contractor subcontracts any of the Services, Contractor will be fully responsible to City for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and City. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement

applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by City.

#### **11. OTHER CONTRACTORS**

The City reserves the right to employ other Contractors in connection with the Services.

#### **12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by the City), indemnify, and hold harmless the City and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorney's fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation program is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

#### **13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current Best's Key Rating of not less than "A-:VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

**13.1 Coverages and Limits.** Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability (CGL) Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to City's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 The City will be named as an additional insured on Commercial General Liability which shall provide primary coverage to the City.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to City sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to City's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to City.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then City will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by City to obtain or maintain insurance and City may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. City reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

14. **BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

15. **ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

16. **OWNERSHIP OF DOCUMENTS**

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of City. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to City. Contractor will have the right to make one (1) copy of the work product for Contractor's records.

17. **COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in City and Contractor relinquishes all claims to the copyrights in favor of City.

18. **NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of City and on behalf of Contractor under this Agreement are:

For City:

Name	Jennifer Chapman
Title	Senior Contract Administrator
Dept	Public Works/CM&I
	CITY OF CARLSBAD
Address	1635 Faraday Ave.
	Carlsbad, CA 92008
Phone	442-339-2780

For Contractor:

Name	Patrick Nolan
Title	President
Address	31959 Via Ararat Drive
	Bonsall, CA 92003
Phone	858-254-2949
Email	<a href="mailto:patrick@newcityconsulting.com">patrick@newcityconsulting.com</a>

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

19. **GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services, the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or City will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, City may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If City decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, City may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by City and all work in progress to City at the address contained in this Agreement. City will make a determination of fact based upon the work product delivered to City and of the percentage of work that Contractor has performed which is usable and of worth to City in having the Agreement completed. Based upon that finding City will determine the final payment of the Agreement.

City may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to City. In the event of termination of this Agreement by either party and upon request of City, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to City. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. City will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award



or making of this Agreement. For breach or violation of this warranty, City will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any Agreement claim submitted to City must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to City, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act, applies to this Agreement and provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If City seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon City and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of City, which shall not be unreasonably withheld.

**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the City and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely

responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

### 31. **AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

CONTRACTOR  
NEW CITY CONSULTING, INC., a California corporation

CITY OF CARLSBAD, a municipal corporation of the State of California

By:

Patrick Nolan

(sign here)

Patrick Nolan,  
President and Chief Financial Officer  
(print name/title)

By:

(sign here)

(print name/title)

By:

KEITH BLACKBURN, Mayor

ATTEST:

SHERRY FREISINGER, City Clerk

By:

Director of Constituent & Clerk Services

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

Group A  
Chairman,  
President, **or**  
Vice-President

Group B  
Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, City Attorney

BY:

Cindie K. McMahon

**EXHIBIT A**

**SCOPE OF SERVICES AND FEES**

Contractor shall perform as-needed vertical construction management and inspection services in accordance with the city's Request for Qualifications (RFQ25-3671CMI) dated March 5, 2025. The agreed upon billing rates for services outlined in said proposal are attached hereto.

All hours billed will be paid at a straight time rate; no overtime billing allowed.

Hours billed on a non-contractor workday must receive prior authorization by city staff.

Rates are inclusive of equipment, vehicle, mileage, laptop computers with wireless connections, cell phone, insurance, travel time, etc.

**Rate Schedule****Firm Name**

City of Carlsbad, RFQ25-3671CMI

Prices valid through initial Term of Agreement

**Staff**

	<u>NAME</u>	<u>TITLE</u>	<u>HOURLY RATE</u>
1	Names of staff	Senior Construction Manager	\$233.00
2	not required per	Construction Manager	\$198.00
3	Addendum No. 2	Senior Construction Inspector	\$185.00
4	Q&A set.	Assistant Construction Manager	\$166.00
5		Certified Payroll Compliance	\$145.00
6			
7			
8			
9			
10			
11			
12			

**Sub-Consultants: CPM Partners**

	<u>NAME/FIRM</u>	<u>TITLE</u>	<u>HOURLY RATE</u>
1	CPM Partners,	RE, Sr. Scheduler, Sr. Claims	\$240.00
2	Encinitas, CA	RE, Inspector	\$233.00
3	Names of staff not required	ARE, Inspector	\$224.00
4	per Addendum No. 2	OE, Inspector	\$224.00
5	Q&A set.	Scheduler, Claims Support	\$181.00

**Expenses**

	<u>DESCRIPTION</u>	<u>COST</u>	<u>% MARKUP</u>
1	Only Where Allowable per Contract		10%
2			
3			
4			
5			

**MASTER AGREEMENT FOR AS-NEEDED VERTICAL CONSTRUCTION MANAGEMENT AND INSPECTION  
SCHNEIDER CM, INC.**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2025, but effective August 18, 2025, by and between the City of Carlsbad, California, a municipal corporation ("City"), and Schneider CM, Inc., a California corporation ("Contractor").

**RECITALS**

- A. City requires the professional services of a consultant that is experienced in construction management and inspection for vertical projects.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to as-needed vertical construction management and inspection.
- D. Contractor has submitted a proposal to the city responsive to Request for Qualifications RFQ25-3671CMI and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, City and Contractor agree as follows:

**1. SCOPE OF WORK**

City retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A," which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area, and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective from the date first above written to Aug. 17, 2028. The City Manager may amend the Agreement to extend it for two (2) additional one (1) year periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, City needs, and appropriation of funds by the City Council. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by City and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the City Manager or the Division Director

("Director") as authorized by the City Manager. The City Manager or Director will give allowance for documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight on the part of Contractor, or delays caused by City inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed eight hundred thousand dollars (\$800,000) per Agreement year. If the City extends the Agreement pursuant to Section 3, the costs of services may increase by a maximum of 2% per Agreement year, if agreed to by both parties. Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A." Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, City shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for City, the City Manager or Director, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize City's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. Contractor is required to create a free web-based Procore user account(s) and utilize web-based training/tutorials (as needed) to become familiar with the system. Unless the City

Engineer approves otherwise, Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on projects. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. Contractor is responsible for attaining Contractor's own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to Contractor for use of Procore.

It is recommended that Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, requests for information, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

#### **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of City. Contractor will be under the control of City only as to the result to be accomplished, but will consult with City as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of City for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. City will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. City will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify City within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which City may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At the City's election, City may deduct the indemnification amount from any balance owing to Contractor.

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Contractor will not subcontract any portion of the Services without prior written approval of City. If Contractor subcontracts any of the Services, Contractor will be fully responsible to City for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and City. Contractor will be responsible for payment of subcontractors. Contractor will bind

every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by City.

#### **11. OTHER CONTRACTORS**

The City reserves the right to employ other Contractors in connection with the Services.

#### **12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by the City), indemnify, and hold harmless the City and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorney's fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation program is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

#### **13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current Best's Key Rating of not less than "A-:VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

**13.1 Coverages and Limits.** Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.



13.1.1 Commercial General Liability (CGL) Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to City's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 The City will be named as an additional insured on Commercial General Liability which shall provide primary coverage to the City.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to City sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to City's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to City.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then City will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by City to obtain or maintain insurance and City may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. City reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

**14. BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

**15. ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

**16. OWNERSHIP OF DOCUMENTS**

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of City. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to City. Contractor will have the right to make one (1) copy of the work product for Contractor’s records.

**17. COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in City and Contractor relinquishes all claims to the copyrights in favor of City.

**18. NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of City and on behalf of Contractor under this Agreement are:

<u>For City:</u>		<u>For Contractor:</u>	
Name	Jennifer Chapman	Name	Robert Polley
Title	Senior Contract Administrator	Title	Project Manager
Dept	Public Works/CM&I	Address	6353 El Camino Real, Ste C
	CITY OF CARLSBAD		Carlsbad, CA 92009
Address	1635 Faraday Ave.	Phone	760-717-0535
	Carlsbad, CA 92008	Email	<a href="mailto:Robert.polley@schneidercm.net">Robert.polley@schneidercm.net</a>
Phone	442-339-2780		

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

**19. GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor’s services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services, the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or City will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, City may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If City decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, City may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by City and all work in progress to City at the address contained in this Agreement. City will make a determination of fact based upon the work product delivered to City and of the percentage of work that Contractor has performed which is usable and of worth to City in having the Agreement completed. Based upon that finding City will determine the final payment of the Agreement.

City may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to City. In the event of termination of this Agreement by either party and upon request of City, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to City. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. City will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award

or making of this Agreement. For breach or violation of this warranty, City will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any Agreement claim submitted to City must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to City, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act, applies to this Agreement and provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If City seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon City and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of City, which shall not be unreasonably withheld.

**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the City and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely

responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

### 31. **AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

CONTRACTOR  
SCHNEIDER, CM, INC., a California corporation

CITY OF CARLSBAD, a municipal corporation of  
the State of California

By: Carl Schneider  
(sign here)

By: \_\_\_\_\_  
KEITH BLACKBURN, Mayor

Carl Schneider,  
President and Chief Financial Officer  
\_\_\_\_\_  
(print name/title)

ATTEST:

By: \_\_\_\_\_  
(sign here)

SHERRY FREISINGER, City Clerk

\_\_\_\_\_  
(print name/title)

By: \_\_\_\_\_  
Director of Constituent & Clerk Services

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

Group A  
Chairman,  
President, **or**  
Vice-President

Group B  
Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, City Attorney

BY: Cindie K. McMahon

**EXHIBIT A**

**SCOPE OF SERVICES AND FEES**

Contractor shall perform as-needed vertical construction management and inspection services in accordance with the city's Request for Qualifications (RFQ25-3671CMI) dated March 5, 2025. The agreed upon billing rates for services outlined in said proposal are attached hereto.

All hours billed will be paid at a straight time rate; no overtime billing allowed.

Hours billed on a non-contractor workday must receive prior authorization by city staff.

Rates are inclusive of equipment, vehicle, mileage, laptop computers with wireless connections, cell phone, insurance, travel time, etc.

Category	Hourly Rate
Senior Construction Manager (with CCM credential, e.g., Robert Polley)	\$212
Construction Manager/Field Engineer (without CCM credential)	\$190
Project Administrative Support	\$100
Estimating	\$190
Scheduling	\$190
Firm Principal involvement in the above categories, where required	\$250

Reimbursable Expenses	Cost
Reprographics, as needed	Pass-through, no markup

Quality assurance and inspection are provided by the Senior Construction Manager as outlined above.

Costs are in dollars per hour, fully burdened (inclusive of mileage, travel expenses, all equipment, cell phones, laptops, insurance, and vehicle charges, etc.).

As stipulated in the RFQ, our pricing shall remain firm for the initial three-year term. If the City elects to extend the Agreement, the costs of services can be increased by a maximum of 2% per extension term, if agreed to by both parties.

**MASTER AGREEMENT FOR AS-NEEDED VERTICAL CONSTRUCTION MANAGEMENT AND INSPECTION  
WSP USA, Inc.**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2025, but effective August 18, 2025, by and between the City of Carlsbad, California, a municipal corporation ("City"), and WSP USA, Inc., a New York corporation ("Contractor").

**RECITALS**

- A. City requires the professional services of a consultant that is experienced in construction management and inspection for vertical projects.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to as-needed vertical construction management and inspection.
- D. Contractor has submitted a proposal to the city responsive to Request for Qualifications RFQ25-3671CMI and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, City and Contractor agree as follows:

**1. SCOPE OF WORK**

City retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A," which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area, and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective from the date first above written to Aug. 17, 2028. The City Manager may amend the Agreement to extend it for two (2) additional one (1) year periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, City needs, and appropriation of funds by the City Council. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by City and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the City Manager or the Division Director ("Director") as authorized by the City Manager. The City Manager or Director will give allowance for



documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight on the part of Contractor, or delays caused by City inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed eight hundred thousand dollars (\$800,000) per Agreement year. If the City extends the Agreement pursuant to Section 3, the costs of services may increase by a maximum of 2% per Agreement year, if agreed to by both parties. Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A." Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, City shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for City, the City Manager or Director, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize City's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. Contractor is required to create a free web-based Procore user account(s) and utilize web-based training/tutorials (as needed) to become familiar with the system. Unless the City Engineer approves otherwise, Contractor shall process all project documents through Procore because

this platform will be used to submit, track, distribute and collaborate on projects. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. Contractor is responsible for attaining Contractor's own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to Contractor for use of Procore.

It is recommended that Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, requests for information, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

#### **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of City. Contractor will be under the control of City only as to the result to be accomplished, but will consult with City as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of City for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. City will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. City will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify City within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which City may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At the City's election, City may deduct the indemnification amount from any balance owing to Contractor.

#### **9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

#### **10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of City. If Contractor subcontracts any of the Services, Contractor will be fully responsible to City for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and City. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement

applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by City.

#### **11. OTHER CONTRACTORS**

The City reserves the right to employ other Contractors in connection with the Services.

#### **12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by the City), indemnify, and hold harmless the City and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorney's fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation program is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

#### **13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current Best's Key Rating of not less than "A-:VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

**13.1 Coverages and Limits.** Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability (CGL) Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to City's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 The City will be named as an additional insured on Commercial General Liability which shall provide primary coverage to the City.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to City sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to City's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to City.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then City will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by City to obtain or maintain insurance and City may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. City reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

14. **BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

15. **ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

16. **OWNERSHIP OF DOCUMENTS**

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of City. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to City. Contractor will have the right to make one (1) copy of the work product for Contractor’s records.

17. **COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in City and Contractor relinquishes all claims to the copyrights in favor of City.

18. **NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of City and on behalf of Contractor under this Agreement are:

For City:

Name	Jennifer Chapman
Title	Senior Contract Administrator
Dept	Public Works/CM&I
	CITY OF CARLSBAD
Address	1635 Faraday Ave.
	Carlsbad, CA 92008
Phone	442-339-2780

For Contractor:

Name	Andrew Fiscus
Title	Contract Manager
Address	9177 Sky Park Court
	San Diego, CA 92123
Phone	760-505-5475
Email	<a href="mailto:Andrew.fiscus@wsp.com">Andrew.fiscus@wsp.com</a>

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

19. **GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor’s services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services, the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or City will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, City may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If City decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, City may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by City and all work in progress to City at the address contained in this Agreement. City will make a determination of fact based upon the work product delivered to City and of the percentage of work that Contractor has performed which is usable and of worth to City in having the Agreement completed. Based upon that finding City will determine the final payment of the Agreement.

City may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to City. In the event of termination of this Agreement by either party and upon request of City, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to City. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. City will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award

or making of this Agreement. For breach or violation of this warranty, City will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any Agreement claim submitted to City must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to City, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act, applies to this Agreement and provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If City seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon City and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of City, which shall not be unreasonably withheld.

**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the City and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely

responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

### 31. AUTHORITY

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

#### CONTRACTOR

WSP USA, Inc., a New York corporation

By:

Andrew Fiscus

(sign here)

Andrew Fiscus, Vice President

(print name/title)

By:

(sign here)

(print name/title)

CITY OF CARLSBAD, a municipal corporation of the State of California

By:

KEITH BLACKBURN, Mayor

ATTEST:

SHERRY FREISINGER, City Clerk

By:

Director of Constituent & Clerk Services

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

#### Group A

Chairman,  
President, **or**  
Vice-President

#### Group B

Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, City Attorney

BY: Cindie K. McMahon



**EXHIBIT A**

**SCOPE OF SERVICES AND FEES**

Contractor shall perform as-needed vertical construction management and inspection services in accordance with the city's Request for Qualifications (RFQ25-3671CMI) dated March 5, 2025. The agreed upon billing rates for services outlined in said proposal are attached hereto.

All hours billed will be paid at a straight time rate; no overtime billing allowed.

Hours billed on a non-contractor workday must receive prior authorization by city staff.

Rates are inclusive of equipment, vehicle, mileage, laptop computers with wireless connections, cell phone, insurance, travel time, etc.

**EXHIBIT A – MASTER AGREEMENT RATE SCHEDULE**

Prices valid through initial Term of Agreement

<b><u>STAFF</u></b>			
	<b><u>NAME</u></b>	<b><u>TITLE</u></b>	<b><u>HOURLY RATE</u></b>
1.	Hopkins, Yvette	Project Manager	\$190.00
2.	Jaffe, Adam	Jr CMRE / Inspector / Material Tester	\$240.00
3.	Corbala, Anna	Jr CMRE / Inspector / Material Tester	\$240.00
4.	Williams, Spencer	Jr CMRE / Inspector / Material Tester	\$240.00
5.	Ramirez, Tony	CMRE / Inspector	\$260.00
6.	Mahmalji, Samir	CMRE / Inspector	\$260.00
7.	Kiepe, Thomas	CMRE / Inspector	\$260.00
8.	Diana, Michael	CMRE / Inspector	\$260.00
9.	Wilson, David	Principal Material Tester	\$295.00
10.	Seyde, Veronica	Senior Environmental Scientist	\$305.00
11.	Packey, Keith	Senior - CMRE / Inspector	\$300.00
12.	Fiscus, Andrew	Contract Manager	\$350.00

<b><u>SUB-CONSULTANTS</u></b>				
	<b><u>NAME</u></b>	<b><u>FIRM</u></b>	<b><u>TITLE</u></b>	<b><u>HOURLY RATE</u></b>
1.	Chris Kelley	Acroscopic	CMRE / Inspector	\$185.00
2.	Christine Willson	Imperium First	Senior Labor Compliance	\$103.00
3.	Christelle Olu-Coker	Imperium First	Labor Compliance Specialist	\$89.00
4.	Robin Wollen	La Salle Sollutions	Construction Inspector	\$235.00
5.	Enrique Castaneda	La Salle Sollutions	CM/RE	\$235.00
6.	Samuel Virgil	La Salle Sollutions	CM/RE	\$235.00
7.	Exavier Aguilar	La Salle Sollutions	CM/RE	\$235.00
8.	Carlos Molina	La Salle Sollutions	CM/RE	\$235.00
9.	Donovan Stacy	La Salle Sollutions	CM/RE	\$235.00

<b><u>EXPENSES</u></b>			
	<b><u>DESCRIPTION</u></b>	<b><u>COST</u></b>	<b><u>% MARKUP</u></b>
1.	WSP Mileage	Included in Hourly Rate	None
2.	Imperium First Mileage	Included in Hourly Rate	None
3.	Acroscopic Mileage	Included in Hourly Rate	None
4.	La Salle Mileage	Included in Hourly Rate	None
5.	Subconsultant Markup		10%

**PUBLIC WORKS – REQUEST FOR QUALIFICATIONS RFQ25-3671CMI**

2025 Master Agreement Consultant Services for Construction Management &amp; Inspection Services

**MASTER AGREEMENT FOR  
WASTEWATER ENGINEERING SERVICES  
CAROLLO ENGINEERS, INC.**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day June, 2025, but effective July 1, 2025, by and between the City of Carlsbad, California, a municipal corporation, ("City"), and Carollo Engineers, Inc., a Delaware corporation ("Contractor").

**RECITALS**

- A. City requires the professional services of a consultant that is experienced in wastewater engineering services.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to wastewater engineering.
- D. Contractor has submitted a proposal to the city responsive to Request for Qualifications RFO25-3437CA and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, City and Contractor agree as follows:

**1. SCOPE OF WORK**

City retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A", which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective for a period of three (3) years from July 1, 2025, through June 30, 2028. The City Manager may amend the Agreement to extend it for two (2) additional one (1) year(s) periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, City needs, and appropriation of funds by the City Council. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by City and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the City Manager or the Division Director ("Director") as authorized by the City Manager. The City Manager or Director will give allowance for

documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight on the part of Contractor, or delays caused by City inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed five hundred thousand dollars (\$500,000). Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, City shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for City, the City Manager or Director, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

If the City elects to extend the term of the Master Services Agreement, adjustments to the rate schedule may be permitted. Upon receipt of a written request from the Contractor, the City may consider approving a rate schedule increase. Rate schedule increases will be considered for each anniversary of the Agreement effective date after the initial three-year term. An increase to the rate schedule will be calculated based on the proceeding 12-month percentage change in the Consumer Price Index, San Diego Area, for All Urban Customers (CPI-U), as reported by the Bureau of Labor Statistics or 5.0%, whichever is lower. If the CPI-U is a negative number, then the rate schedule will not be adjusted for that year. The Contractor must submit a request and justification to increase the rate schedule at least sixty days prior to the anniversary of the effective date, assuming the City opt to extend the Master Services Agreement. The justification accompanying the written request should detail the rationale for the requested adjustment, and the requested adjustment amount, supported by relevant documentation (e.g., CPI-U or 5.0%, whichever is less). Approval of rate schedule increase by the City must be documented in an amendment to the Agreement.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California

Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize the Owner's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. The Contractor is required to create a free web-based Procore user account(s) and utilize web-based training / tutorials (as needed) to become familiar with the system. Unless the Engineer approves otherwise, the Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. The Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of the Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that the Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, RFIs, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

## **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of City. Contractor will be under control of City only as to the result to be accomplished, but will consult with City as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of City for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. City will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. City will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify City within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which City may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At the City's election, City may deduct the indemnification amount from any balance owing to Contractor.

**9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

**10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of City. If Contractor subcontracts any of the Services, Contractor will be fully responsible to City for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and City. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by City.

**11. OTHER CONTRACTORS**

The City reserves the right to employ other Contractors in connection with the Services.

**12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by the City), indemnify, and hold harmless the City and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation program is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

**13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current

Best's Key Rating of not less than "A-:VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

13.1 Coverages and Limits. Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability (CGL) Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to City's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 The City will be named as an additional insured on Commercial General Liability which shall provide primary coverage to the City.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to City sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to City's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to City.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then City will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by City to obtain or maintain insurance and City may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. City reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

14. **BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

15. **ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

16. **OWNERSHIP OF DOCUMENTS**

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of City. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to City. Contractor will have the right to make one (1) copy of the work product for Contractor's records.

17. **COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in City and Contractor relinquishes all claims to the copyrights in favor of City.

18. **NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of City and on behalf of Contractor under this Agreement are:

For City:

Name	<u>Eleida Felix Yackel</u>
Title	<u>Senior Contract Administrator</u>
Dept	<u>Public Works/ Contract Admin</u>
	<u>CITY OF CARLSBAD</u>
Address	<u>1635 Faraday Ave.</u>
	<u>Carlsbad, CA 92008</u>

For Contractor:

Name	<u>Jeff Weishaar</u>
Title	<u>Vice President</u>
Address	<u>5355 Mira Sorrento Place</u>
	<u>San Diego CA 92122</u>
Phone	<u>858-245-6081</u>
Email	<u>jweishaar@carollo.com</u>



Phone 442-339-2767

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

**19. GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or City will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, City may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If City decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, City may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by City and all work in progress to City at the address contained in this Agreement. City will make a determination of fact based upon the work product delivered to City and of the percentage of work that Contractor has performed which is

usable and of worth to City in having the Agreement completed. Based upon that finding City will determine the final payment of the Agreement.

City may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to City. In the event of termination of this Agreement by either party and upon request of City, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to City. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. City will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, City will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any Agreement claim submitted to City must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to City, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If City seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon City and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of City, which shall not be unreasonably withheld.

**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the City and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract, and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}

CONTRACTOR  
CAROLLO ENGINEERS, INC., a Delaware  
corporation

CITY OF CARLSBAD, a municipal  
corporation of the State of California

By:

Jeff Weishaar

(sign here)

Jeffrey A. Weishaar,  
Associate Vice President

(print name/title)

By:

(sign here)

(print name/title)

By:

Keith Blackburn, Mayor

ATTEST:

SHERRY FREISINGER, City Clerk

By:

Faviola Medina,  
Director of Constituent & Clerk Services

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

**Group A**  
Chairman,  
President, **or**  
Vice-President

**Group B**  
Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, City Attorney

BY: Cindie K. McMahon

**EXHIBIT A****SCOPE OF SERVICES AND FEES**

Perform a variety of tasks related to wastewater engineering services, as outlined in the individual Project Task Descriptions and Fee Allotments (PTD&FA), including but not limited to the following:

- A. Design of Gravity Sewers, Lift Stations, Force Mains and Surge Protection and Odor Control Systems.
- B. Sewer System Rehabilitation.
- C. Electrical Upgrades and Optimization Studies for Lift Stations.
- D. Constructability Review and Development Plan Review.
- E. Regulatory Agency Compliance Support/ Reports/ Studies.

Requests for work not listed above must be contracted under separate agreement.

# Fee Schedule

## Wastewater Engineering Services Services Schedule of Hourly Billing Rates As of January 1, 2025, California

	Hourly Rate
<b>Engineers/Scientists</b>	
Assistant Professional	\$180
Design Engineer	\$190
Professional	\$195
Project Engineer	\$215
Project Professional	\$233
Senior Engineer	\$270
Lead Project Professional / Task Order Manager	\$280
Contract Manager	\$298
Senior Professional	\$320
<b>Technicians</b>	
Technicians	\$175
Senior Technicians	\$190
<b>Support Sta</b>	
Document Processing / Clerical	\$160
<b>Other Direct Expenses</b>	
Travel and Subsistence	at cost
Mileage at IRS Reimbursement Rate Effective January 1, 2025	\$.67 per mile
Subconsultant	cost + 5%
Other Direct Cost	cost + 5%
Expert Witness	Rate x 2.0

~~This fee schedule is subject to annual revisions due to labor adjustments.~~

**MASTER AGREEMENT FOR  
WASTEWATER ENGINEERING SERVICES  
DOKKEN ENGINEERING**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of June, 2025, but effective July 1, 2025, by and between the City of Carlsbad, California, a municipal corporation, ("City"), and Dokken Engineering, a California corporation ("Contractor").

**RECITALS**

- A. City requires the professional services of a consultant that is experienced in wastewater engineering services.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to wastewater engineering.
- D. Contractor has submitted a proposal to the city responsive to Request for Qualifications RFQ25-3437CA and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, City and Contractor agree as follows:

**1. SCOPE OF WORK**

City retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A", which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective for a period of three (3) years from July 1, 2025, through June 30, 2028. The City Manager may amend the Agreement to extend it for two (2) additional one (1) year(s) periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, City needs, and appropriation of funds by the City Council. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by City and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the City Manager or the Division Director ("Director") as authorized by the City Manager. The City Manager or Director will give allowance for

documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight on the part of Contractor, or delays caused by City inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed five hundred thousand dollars (\$500,000). Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, City shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for City, the City Manager or Director, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

If the City elects to extend the term of the Master Services Agreement, adjustments to the rate schedule may be permitted. Upon receipt of a written request from the Contractor, the City may consider approving a rate schedule increase. Rate schedule increases will be considered for each anniversary of the Agreement effective date after the initial three-year term. An increase to the rate schedule will be calculated based on the proceeding 12-month percentage change in the Consumer Price Index, San Diego Area, for All Urban Customers (CPI-U), as reported by the Bureau of Labor Statistics or 5.0%, whichever is lower. If the CPI-U is a negative number, then the rate schedule will not be adjusted for that year. The Contractor must submit a request and justification to increase the rate schedule at least sixty days prior to the anniversary of the effective date, assuming the City opt to extend the Master Services Agreement. The justification accompanying the written request should detail the rationale for the requested adjustment, and the requested adjustment amount, supported by relevant documentation (e.g., CPI-U or 5.0%, whichever is less). Approval of rate schedule increase by the City must be documented in an amendment to the Agreement.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California



Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize the Owner's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. The Contractor is required to create a free web-based Procore user account(s) and utilize web-based training / tutorials (as needed) to become familiar with the system. Unless the Engineer approves otherwise, the Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. The Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of the Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that the Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, RFIs, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

## **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of City. Contractor will be under control of City only as to the result to be accomplished, but will consult with City as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of City for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. City will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. City will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify City within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which City may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At the City's election, City may deduct the indemnification amount from any balance owing to Contractor.

**9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

**10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of City. If Contractor subcontracts any of the Services, Contractor will be fully responsible to City for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and City. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by City.

**11. OTHER CONTRACTORS**

The City reserves the right to employ other Contractors in connection with the Services.

**12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by the City), indemnify, and hold harmless the City and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation program is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

**13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current

Best's Key Rating of not less than "A-:VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

13.1 Coverages and Limits. Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability (CGL) Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to City's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 The City will be named as an additional insured on Commercial General Liability which shall provide primary coverage to the City.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to City sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to City's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to City.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then City will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by City to obtain or maintain insurance and City may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. City reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

**14. BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

**15. ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

**16. OWNERSHIP OF DOCUMENTS**

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of City. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to City. Contractor will have the right to make one (1) copy of the work product for Contractor's records.

**17. COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in City and Contractor relinquishes all claims to the copyrights in favor of City.

**18. NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of City and on behalf of Contractor under this Agreement are:

For City:

Name	<u>Eleida Felix Yackel</u>
Title	<u>Senior Contract Administrator</u>
Dept	<u>Public Works/ Contract Admin</u>
	<u>CITY OF CARLSBAD</u>
Address	<u>1635 Faraday Ave.</u>
	<u>Carlsbad, CA 92008</u>

For Contractor:

Name	<u>John A. Klemunes, Jr.</u>
Title	<u>President</u>
Address	<u>110 Blue Ravine Rd, Suite 200</u>
	<u>Folsom, CA 95630</u>
Phone	<u>916-858-0642</u>
Email	<u>jklemunes@dokkenengineering.com</u>

Phone 442-339-2767

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

**19. GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

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Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, City will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any Agreement claim submitted to City must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to City, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If City seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon City and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of City, which shall not be unreasonably withheld.

**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the City and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract, and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}

CONTRACTOR  
DOKKEN ENGINEERING, a California  
corporation

CITY OF CARLSBAD, a municipal  
corporation of the State of California

By:

John A. Klemunes, Jr.

(sign here)

John A. Klemunes, President

(print name/title)

By:

(sign here)

(print name/title)

By:

Keith Blackburn, Mayor

ATTEST:

SHERRY FREISINGER, City Clerk

By:

Faviola Medina,  
Director of Constituent & Clerk Services

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

**Group A**

Chairman,  
President, **or**  
Vice-President

**Group B**

Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, City Attorney

BY: Cindie K. McMahon



**EXHIBIT A****SCOPE OF SERVICES AND FEES**

Perform a variety of tasks related to wastewater engineering services, as outlined in the individual Project Task Descriptions and Fee Allotments (PTD&FA), including but not limited to the following:

- A. Design of Gravity Sewers, Lift Stations, Force Mains and Surge Protection and Odor Control Systems.
- B. Sewer System Rehabilitation.
- C. Electrical Upgrades and Optimization Studies for Lift Stations.
- D. Constructability Review and Development Plan Review.
- E. Regulatory Agency Compliance Support/ Reports/ Studies.

Requests for work not listed above must be contracted under separate agreement.

**ATTACHMENT B –MASTER SERVICES AGREEMENT RATE SCHEDULE**

Prices valid through Term of Agreement

<b><u>DOKKEN ENGINEERING</u></b>			
	<b><u>NAME</u></b>	<b><u>TITLE</u></b>	<b><u>HOURLY RATE</u></b>
1.	Craig Pekunece, PE	Contract/Project Manager	\$205.00
2.	Staff	Principal in Charge	\$325.00
3.	Staff	QA/QC Manager	\$325.00
4.	Staff	Senior Engineer 2	\$295.00
5.	Staff	Senior Engineer 1	\$255.00
6.	Staff	Associate Engineer 2	\$205.00
7.	Staff	Associate Engineer 1	\$185.00
8.	Staff	Assistant Engineer 2	\$160.00
9.	Staff	Assistant Engineer 1	\$135.00
10.	Staff	Senior CAD Manager	\$245.00
11.	Staff	CAD/Engineering Technician 2	\$160.00
12.	Staff	CAD/Engineering Technician 1	\$125.00
13.	Staff	Environmental Manager	\$285.00
14.	Staff	Principal Planner	\$215.00
15.	Staff	Senior Environmental Planner	\$195.00
16.	Staff	Associate Environmental Planner	\$145.00
17.	Staff	Environmental Planner	\$115.00
18.	Staff	Environmental Technician	\$95.00
19.	Staff	Right of Way Manager	\$235.00
20.	Staff	Senior Right of Way Agent	\$195.00
21.	Staff	Right of Way Agent	\$125.00
22.	Staff	Right of Way Appraiser	\$125.00
23.	Staff	Right of Way Assistant	\$95.00

**SUB-CONSULTANTS****FIRM**

1.	Aguirre & Associates	See attached rate schedule.
2.	BSE Engineering	See attached rate schedule.
3.	LEE + RO	See attached rate schedule.
4.	NOVA Services	See attached rate schedule.



<b><u>EXPENSES</u></b>			
	<b><u>DESCRIPTION</u></b>	<b><u>COST</u></b>	<b><u>% MARKUP</u></b>
1.	Outside Reproduction	Actual Cost	0%
2.	Permit Fees	Actual Cost	0%
3.	Public Notice Advertisements	Actual Cost	0%
4.	Postage for Public Notice Advertisements	Actual Cost	0%
5.	Record Search Fees / EDR Reports	Actual Cost	0%
6.	Room and Equipment Rentals	Actual Cost	0%
7.	Traffic Control	Actual Cost	0%
8.	Utility Potholing	Actual Cost	0%
9.	Title Reports	Actual Cost	0%
10.	Appraisals	Actual Cost	0%
11.	Appraisal Reviews	Actual Cost	0%



# AGUIRRE & ASSOCIATES

## SCHEDULE OF HOURLY BILLING RATES

Effective January 1, 2024

### LAND SURVEYING SERVICES - OFFICE

Mickey Aguirre, Principal Land Surveyor	PLS	\$200.00
Mike Havener, Land Surveyor	LS	180.00
Kenneth Anderson, CAD Technician	CAD	120.00

### LAND SURVEYING SERVICES - FIELD

Marc Syverson, 1-Person Survey Crew (PW)	1PSC-PW	250.00
Marc Syverson, 1-Person Survey Crew (GPS) (PW)	1PSC-GPS-PW	250.00
Ivan Nunez, GPS Crew Assistant (PW)	GPS-A-PW	245.00
Marc Syverson, Survey Crew Party Chief (PW)	PC-PW	250.00
Ivan Nunez, Survey Crew Chainman (PW)	CH-PW	245.00

PW = Prevailing Wage Position

### DIRECT COSTS

Prints and Copies	Cost
Delivery Charges	Cost
Photogrammetry	Cost



## ATTACHMENT B – MASTER SERVICES AGREEMENT RATE SCHEDULE

Prices valid through Term of Agreement

<b><u>STAFF</u></b>			
	<b><u>NAME</u></b>	<b><u>TITLE</u></b>	<b><u>HOURLY RATE</u></b>
1	Alan Brown	Principal Engineer	\$ 294.00
2	Paul Luster	Principal Engineer	\$ 294.00
3	Ross Slocum	Senior Associate	\$ 250.00
4	Brandon Reed	Senior Associate	\$ 250.00
5	Bobby Rodrigues	Senior Associate	\$ 250.00
6	Karl Fish	Senior Associate	\$ 250.00
7	TBD	Associate Engineer	\$ 229.00
8	Miriam Pinzon-Betancourt	Senior Engineer	\$ 208.00
9	Jordan Katz	Project Engineer	\$ 192.00
10	TBD	Engineer II	\$ 159.00
11	Mathew Ballerini	Engineer I	\$ 142.00
12	Noel Wilshusen	Senior Designer	\$ 160.00
13	Kevin Sheppard	Senior Designer	\$ 160.00
14	Julio Iraheta	Senior Designer	\$ 160.00
15	TBD	Designer II	\$ 138.00
16	TBD	Designer I	\$ 116.00
17	Jeremy Carnahan	Senior CAD/BIM	\$ 117.00
18	Patrick Adams	Senior CAD/BIM	\$ 117.00
19	TBD	CAD/BIM II	\$ 101.00
20	Elizabeth Potts	CAD/BIM I	\$ 84.00
21	Vanessa Ortega	Senior Administrator	\$ 149.00
22	Lisa Velazquez	Admin	\$ 83.00



ATTACHMENT B –MASTER SERVICES AGREEMENT RATE SCHEDULE (EXAMPLE)

Prices valid through Term of Agreement

STAFF			
	NAME	TITLE	HOURLY RATE
1.	Eric Lovering	Principle in Charge	\$353.00
2.	Eric Magee	Supervising Engineer	\$284.00
3.	Boyana Angelova	Engineer	\$197.00
4.	Shayan Sharifzad	Assistant Engineer	\$131.00
5.	Abigail Tymn	Junior Engineer	\$109.00
9.	Hector Robledo	Principal Designer	\$235.00
10.	Gloria Hodgers	Administrative 2	\$114.00

EXPENSES			
	DESCRIPTION	COST	% MARKUP
1.	Mileage	IRS Published Rate	0%
2.	Copy services	\$0.15 / page	0%
3.	Mylar Copies	\$8.00 / page	0%
4.			

RFQ25-3437CA  
REQUEST FOR QUALIFICATIONS-  
MASTER SERVICES AGREEMENT FOR CONSULTANTS  
24 DUE DATE 12/18/2024  
3:00 PM PST



# City of Carlsbad Rates for Professional and Technical Services

NAME	TITLE	HOURLY RATE
<b>Professional Staff</b>		
	Principal Geotechnical Engineer	\$ 275.00
Tom Canady, PE	Principal Engineer/Geologist	\$ 250.00
Andrew Neuhaus, PG/CEG	Senior Engineer/Geologist	\$ 225.00
	Project Manager	\$ 225.00
	Project Engineer/Geologist	\$ 200.00
	Staff Engineer/Geologist	\$ 180.00
	Soils Technician	\$ 140.00
	Laboratory Technician (sample pick-ups; services outside normal business hours)	\$ 95.00
	Technical Drafter (CAD)	\$ 110.00
	Administrative Support	\$ 75.00

<b>LABORATORY TESTING</b>		
Description	ASTM	RATE/EA
<b>Soil and Aggregate</b>		
Compaction Curve, Modified,	D1557	\$ 275.00
Compaction Curve, Standard,	D698	\$ 275.00
Compaction Check Point		\$ 90.00
Oversize Rock Correction	D4718	\$ 90.00
Sieve Analysis, with Wash	C136, D6913, CT 202	\$ 155.00
Sieve Analysis, fine with Hydrometer	D6913, D7928, D422	\$ 240.00
Percent Finer than #200	C117	\$ 85.00
Specific Gravity and Absorption, Coarse	C127, CT 206	\$ 180.00
Specific Gravity and Absorption, Fine	C128, CT 207	\$ 135.00
Unit Weight and Voids in Aggregate	C29, CT 212	\$ 90.00
Moisture Content	D2216, CT 226	\$ 45.00
Moisture Content and Dry Density	D2937	\$ 45.00
Atterberg Limits: PL, LL, PI	D4318, CT 204	\$ 225.00
Sand Equivalent	D2419, CT 217	\$ 100.00
Durability Index	D3744	\$ 265.00
Cleanliness Value	CT 227	\$ Quote
Los Angeles Abrasion (LA Rattler)	C131, C535	\$ Quote
Expansion Index	D4829	\$ 235.00
R-Value	D2844	\$ 376.00
Consolidation	D2435	\$ 250.00
Direct Shear	D3080	\$ 335.00
Direct Shear Remold		\$ 635.00
Sulfate and Chloride Content		\$ 130.00
pH and Resistivity	CT 643	\$ 165.00
Unconfined Compression	D2166	\$ 180.00
California Bearing Ratio	D1883	\$ 650.00



## City of Carlsbad Rates for Professional and Technical Services

<b>Asphalt Concrete</b>		
Hveem Stability and Unit Weight	D1560	\$ 370.00
Wet Track Abrasion	D3910	\$ 230.00
Maximum Theoretical Specific Gravity (Rice)	D2041	\$ 150.00
Percent Asphalt with Gradation (ignition oven)	C6307	\$ 250.00
Unit Weight Only (compacted sample or core)	D2726, D1188	\$ 55.00
Unit Weight Requiring Compaction	D2726	\$ 250.00
Asphalt Mix Design Review (per hour)		\$ 250.00

### EXPENSES AND OUTSIDE SERVICES

Outside services and reimbursable expenses not included in this fee schedule (samples sent to outside laboratory for testing, samples sent to outside fabricator or machine shop, equipment, subcontractors, vendor credentialing and billing programs, etc.) are charged at cost plus 10%.

### ADDITIONAL TERMS AND CONDITIONS

- Overtime occurs in the following instances:
  - work more than 8 hours per day is charged at time-and-a-half.
  - work more than 40 hours per week is charged at time-and-a-half.
  - work performed outside the hours between 6:30 a.m. and 4:00 p.m., Monday through Friday is charged at time-and-a-half; work up to 12 hours per day on Saturday is charged at time-and-a-half.
  - work more than 12 hours in one day, or over 8 hours on the 7th consecutive day or worked Sundays/holidays is charged at double time.
- Hourly rates are charged on a portal-to-portal basis.
- A 4-hour minimum is charged for field services. Work performed more than 4 hours will be charged at 8 hours. Work performed over 8 hours is charged in half-hour increments.
- 24-hour notice is required for testing and inspection services. There will be a 4-hour minimum charge (show-up time) for cancellations without notification.
- Same Day Callouts will be subject to a 1-hour project management fee.
- When personnel are required by job conditions to work more than 5 consecutive hours without the ability to take a one-half hour uninterrupted lunch period, an additional hour will be billed at regular time in addition to actual hours worked. Laboratory testing that is required to be performed outside regular hours will be billed for Lab Technician time in addition to the lab test rate. Weekend sample pickups, if required, will incur additional charges.
- Please note that our services are billed on a time and materials basis. Our fees are determined by the construction schedule as well as the type and frequency of services requested and specified by local jurisdictions and their representatives.



**MASTER AGREEMENT FOR  
WASTEWATER ENGINEERING SERVICES  
DUDEK**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of June, 2025, but effective July 1, 2025, by and between the City of Carlsbad, California, a municipal corporation, ("City"), and Dudek, a California corporation ("Contractor").

**RECITALS**

- A. City requires the professional services of a consultant that is experienced in wastewater engineering services.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to wastewater engineering.
- D. Contractor has submitted a proposal to the city responsive to Request for Qualifications RFQ25-3437CA and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, City and Contractor agree as follows:

**1. SCOPE OF WORK**

City retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A", which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective for a period of three (3) years from July 1, 2025, through June 30, 2028. The City Manager may amend the Agreement to extend it for two (2) additional one (1) year(s) periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, City needs, and appropriation of funds by the City Council. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by City and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the City Manager or the Division Director ("Director") as authorized by the City Manager. The City Manager or Director will give allowance for

documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight on the part of Contractor, or delays caused by City inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed five hundred thousand dollars (\$500,000). Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, City shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for City, the City Manager or Director, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

If the City elects to extend the term of the Master Services Agreement, adjustments to the rate schedule may be permitted. Upon receipt of a written request from the Contractor, the City may consider approving a rate schedule increase. Rate schedule increases will be considered for each anniversary of the Agreement effective date after the initial three-year term. An increase to the rate schedule will be calculated based on the proceeding 12-month percentage change in the Consumer Price Index, San Diego Area, for All Urban Customers (CPI-U), as reported by the Bureau of Labor Statistics or 5.0%, whichever is lower. If the CPI-U is a negative number, then the rate schedule will not be adjusted for that year. The Contractor must submit a request and justification to increase the rate schedule at least sixty days prior to the anniversary of the effective date, assuming the City opt to extend the Master Services Agreement. The justification accompanying the written request should detail the rationale for the requested adjustment, and the requested adjustment amount, supported by relevant documentation (e.g., CPI-U or 5.0%, whichever is less). Approval of rate schedule increase by the City must be documented in an amendment to the Agreement.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California

Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize the Owner's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. The Contractor is required to create a free web-based Procore user account(s) and utilize web-based training / tutorials (as needed) to become familiar with the system. Unless the Engineer approves otherwise, the Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. The Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of the Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that the Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, RFIs, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

## **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of City. Contractor will be under control of City only as to the result to be accomplished, but will consult with City as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of City for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. City will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. City will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify City within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which City may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At the City's election, City may deduct the indemnification amount from any balance owing to Contractor.

**9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

**10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of City. If Contractor subcontracts any of the Services, Contractor will be fully responsible to City for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and City. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by City.

**11. OTHER CONTRACTORS**

The City reserves the right to employ other Contractors in connection with the Services.

**12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by the City), indemnify, and hold harmless the City and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation program is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

**13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current

Best's Key Rating of not less than "A-:VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

13.1 Coverages and Limits. Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability (CGL) Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to City's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 The City will be named as an additional insured on Commercial General Liability which shall provide primary coverage to the City.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to City sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to City's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to City.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then City will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by City to obtain or maintain insurance and City may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. City reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

**14. BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

**15. ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

**16. OWNERSHIP OF DOCUMENTS**

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of City. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to City. Contractor will have the right to make one (1) copy of the work product for Contractor's records.

**17. COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in City and Contractor relinquishes all claims to the copyrights in favor of City.

**18. NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of City and on behalf of Contractor under this Agreement are:

<u>For City:</u>	
Name	<u>Eleida Felix Yackel</u>
Title	<u>Senior Contract Administrator</u>
Dept	<u>Public Works/ Contract Admin</u>
	<u>CITY OF CARLSBAD</u>
Address	<u>1635 Faraday Ave.</u>
	<u>Carlsbad, CA 92008</u>

<u>For Contractor:</u>	
Name	<u>Legal Department</u>
Title	<u>General Counsel</u>
Address	<u>605 Third Street</u>
	<u>Encinitas, CA 92024</u>
Phone	<u>(760) 942-5147</u>
Email	<u>legal@dudek.com</u>

Phone 442-339-2767

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

**19. GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or City will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, City may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If City decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, City may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by City and all work in progress to City at the address contained in this Agreement. City will make a determination of fact based upon the work product delivered to City and of the percentage of work that Contractor has performed which is

usable and of worth to City in having the Agreement completed. Based upon that finding City will determine the final payment of the Agreement.

City may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to City. In the event of termination of this Agreement by either party and upon request of City, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to City. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. City will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, City will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any Agreement claim submitted to City must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to City, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If City seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon City and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of City, which shall not be unreasonably withheld.



**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the City and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract, and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}

CONTRACTOR  
DUDEK, a California corporation

CITY OF CARLSBAD, a municipal  
corporation of the State of California

By:

*Joseph Monaco*

(sign here)

By:

Keith Blackburn, Mayor

Joseph Monaco, President

(print name/title)

ATTEST:

SHERRY FREISINGER, City Clerk

By:

*Amy Paul*

(sign here)

By:

Faviola Medina,  
Director of Constituent & Clerk Services

Amy M. Paul, Secretary

(print name/title)

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

**Group A**

Chairman,  
President, **or**  
Vice-President

**Group B**

Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, City Attorney

BY:

*Cindie K. McMahon*

**EXHIBIT A****SCOPE OF SERVICES AND FEES**

Perform a variety of tasks related to wastewater engineering services, as outlined in the individual Project Task Descriptions and Fee Allotments (PTD&FA), including but not limited to the following:

- A. Design of Gravity Sewers, Lift Stations, Force Mains and Surge Protection and Odor Control Systems.
- B. Sewer System Rehabilitation.
- C. Electrical Upgrades and Optimization Studies for Lift Stations.
- D. Constructability Review and Development Plan Review.
- E. Regulatory Agency Compliance Support/ Reports/ Studies.

Requests for work not listed above must be contracted under separate agreement.

PSA25-3790CA

# Master Services Agreement Rate Schedule

Table 1, Table 2, and Table 3 detail our proposed rate schedule.

**Table 1. Dudek Staff**

Name	Title	Hourly Rate
Russ Bergholz, PE	Contract Manager	\$315
Kate Palmer, PE	Gravity Sewers and Force mains	\$290
Joe Schnieder, PE	Electrical Upgrades and Optimization for Lift Stations	\$265
Neil Harper, PE	Constructibility Review	\$300
Brandon Lacap, PE	Lift Station Design	\$275
Amanda Combs, PE	Sewer Rehabilitation	\$290
Elizabeth Caliva, PE	Sewer Rehabilitation	\$290
Alex Hardy	Regulatory Agency Compliance Support/Reports/Studies	\$250

**Table 2. Subconsultants**

Name/Firm	Title	Hourly Rate
Justin Pallamary, PLS, NV5 Global Inc.	Senior Project Manager	\$235
Joel Paulson, PLS, GISP, NV5 Global Inc.	Senior Project Manager	\$235
Carl Henderson, PhD, PE, GE, NV5 Global Inc.	Senior Principal Engineer	\$245
Paul Cunningham, PE, GE, NV5 Global Inc.	Senior Engineer	\$185
Joe Rodriguez, EIT, NV5 Global Inc.	Senior Staff Engineer	\$135
Scott Foster (Scott Foster Engineering Inc.)	Principal Engineer	\$270
Gabriel Mercado, AirX Utility Surveyors	Operations Manager	\$205
Rodrigo Rodriguez, AirX Utility Surveyors	Project Manager	\$205
Clinton Boogaard, AirX Utility Surveyors	Traffic Control Manager	\$130

**Table 3. Expenses**

Description	Cost	% Markup
Mileage	\$0.67/mile	0%
Printing Services (D-size sheets)	\$4/sheet	0%

**MASTER AGREEMENT FOR  
WASTEWATER ENGINEERING SERVICES  
MICHAEL K. NUNLEY & ASSOCIATES, INC.**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of June, 2025, but effective July 1, 2025, by and between the City of Carlsbad, California, a municipal corporation, ("City"), and Michael K. Nunley & Associates, Inc., a California corporation ("Contractor").

**RECITALS**

- A. City requires the professional services of a consultant that is experienced in wastewater engineering services.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to wastewater engineering.
- D. Contractor has submitted a proposal to the city responsive to Request for Qualifications RFQ25-3437CA and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, City and Contractor agree as follows:

**1. SCOPE OF WORK**

City retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A", which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective for a period of three (3) years from July 1, 2025, through June 30, 2028. The City Manager may amend the Agreement to extend it for two (2) additional one (1) year(s) periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, City needs, and appropriation of funds by the City Council. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by City and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the City Manager or the Division Director ("Director") as authorized by the City Manager. The City Manager or Director will give allowance for

documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight on the part of Contractor, or delays caused by City inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed five hundred thousand dollars (\$500,000). Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, City shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for City, the City Manager or Director, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

If the City elects to extend the term of the Master Services Agreement, adjustments to the rate schedule may be permitted. Upon receipt of a written request from the Contractor, the City may consider approving a rate schedule increase. Rate schedule increases will be considered for each anniversary of the Agreement effective date after the initial three-year term. An increase to the rate schedule will be calculated based on the proceeding 12-month percentage change in the Consumer Price Index, San Diego Area, for All Urban Customers (CPI-U), as reported by the Bureau of Labor Statistics or 5.0%, whichever is lower. If the CPI-U is a negative number, then the rate schedule will not be adjusted for that year. The Contractor must submit a request and justification to increase the rate schedule at least sixty days prior to the anniversary of the effective date, assuming the City opt to extend the Master Services Agreement. The justification accompanying the written request should detail the rationale for the requested adjustment, and the requested adjustment amount, supported by relevant documentation (e.g., CPI-U or 5.0%, whichever is less). Approval of rate schedule increase by the City must be documented in an amendment to the Agreement.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California

Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize the Owner's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. The Contractor is required to create a free web-based Procore user account(s) and utilize web-based training / tutorials (as needed) to become familiar with the system. Unless the Engineer approves otherwise, the Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. The Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of the Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that the Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, RFIs, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

## **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of City. Contractor will be under control of City only as to the result to be accomplished, but will consult with City as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of City for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. City will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. City will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify City within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which City may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At the City's election, City may deduct the indemnification amount from any balance owing to Contractor.

**9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

**10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of City. If Contractor subcontracts any of the Services, Contractor will be fully responsible to City for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and City. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by City.

**11. OTHER CONTRACTORS**

The City reserves the right to employ other Contractors in connection with the Services.

**12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by the City), indemnify, and hold harmless the City and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation program is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

**13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current



Best's Key Rating of not less than "A-:VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

13.1 Coverages and Limits. Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability (CGL) Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to City's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 The City will be named as an additional insured on Commercial General Liability which shall provide primary coverage to the City.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to City sent by certified mail pursuant to the Notice provisions of this Agreement.

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13.5 Submission of Insurance Policies. City reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

**14. BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

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Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

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**17. COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in City and Contractor relinquishes all claims to the copyrights in favor of City.

**18. NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of City and on behalf of Contractor under this Agreement are:

For City:

Name	<u>Eleida Felix Yackel</u>
Title	<u>Senior Contract Administrator</u>
Dept	<u>Public Works/ Contract Admin</u>
	<u>CITY OF CARLSBAD</u>
Address	<u>1635 Faraday Ave.</u>
	<u>Carlsbad, CA 92008</u>

For Contractor:

Name	<u>Michael K. Nunley</u>
Title	<u>CEO/ President</u>
Address	<u>354 Pacific St</u>
	<u>San Luis Obispo, CA 93420</u>
Phone	<u>805-574-3202</u>
Email	<u>mnunley@mknassociates.us</u>

Phone 442-339-2767

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

**19. GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or City will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, City may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If City decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, City may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by City and all work in progress to City at the address contained in this Agreement. City will make a determination of fact based upon the work product delivered to City and of the percentage of work that Contractor has performed which is

usable and of worth to City in having the Agreement completed. Based upon that finding City will determine the final payment of the Agreement.

City may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to City. In the event of termination of this Agreement by either party and upon request of City, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to City. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. City will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, City will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any Agreement claim submitted to City must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to City, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If City seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon City and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of City, which shall not be unreasonably withheld.

**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the City and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract, and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}

CONTRACTOR  
MICHAEL K. NUNLEY & ASSOCIATES, INC.,  
a California corporation

CITY OF CARLSBAD, a municipal  
corporation of the State of California

By: Michael Nunley, PE President  
(sign here)

By: \_\_\_\_\_  
Keith Blackburn, Mayor

Michael K. Nunley, President and CFO  
(print name/title)

ATTEST:

By: Ryan Gallagher  
(sign here)

SHERRY FREISINGER, City Clerk

By: \_\_\_\_\_  
Faviola Medina,  
Director of Constituent & Clerk Services

Ryan Gallagher, Secretary  
(print name/title)

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

**Group A**  
Chairman,  
President, **or**  
Vice-President

**Group B**  
Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, City Attorney

BY: Cindie K. McMahon

**EXHIBIT A****SCOPE OF SERVICES AND FEES**

Perform a variety of tasks related to wastewater engineering services, as outlined in the individual Project Task Descriptions and Fee Allotments (PTD&FA), including but not limited to the following:

- A. Design of Gravity Sewers, Lift Stations, Force Mains and Surge Protection and Odor Control Systems.
- B. Sewer System Rehabilitation.
- C. Electrical Upgrades and Optimization Studies for Lift Stations.
- D. Constructability Review and Development Plan Review.
- E. Regulatory Agency Compliance Support/ Reports/ Studies.

Requests for work not listed above must be contracted under separate agreement.



## 2025-2027 FEE SCHEDULE

CATEGORY	POSITION	2025-2027
<b>Communications and Administrative</b>	Administrative Assistant	\$119
	Strategic Communications Coordinator	\$132
	Strategic Communications Specialist	\$176
<b>Designers and Technicians</b>	CAD Technician I	\$160
	CAD Design Technician II	\$182
	Senior Designer	\$194
<b>Planning</b>	Assistant Planner I	\$173
	Assistant Planner II	\$193
	GIS Specialist	\$193
	Planner I	\$213
	Planner II	\$229
	Senior Planner	\$258
<b>Engineers</b>	Engineering Technician	\$129
	Assistant Engineer I	\$173
	Assistant Engineer II	\$193
	Project Engineer I	\$213
	Project Engineer II	\$229
	Senior Engineer I	\$250
	Senior Engineer II	\$264
	Senior Engineer III	\$280
	Principal Engineer	\$303
<b>Project Management</b>	Project Manager	\$269
	Senior Project Manager	\$280
	Project Director	\$327
	Senior Project Director	\$345
<b>Construction Management Services</b>	Scheduler	\$187
	*** Construction Inspector	\$209
	Assistant Resident Engineer	\$209
	Resident Engineer	\$223
	Construction Manager	\$243
	Principal Construction Manager	\$286

### DIRECT PROJECT EXPENSES

Outside Reproduction	Cost + 10%
Subcontracted or Subconsultant Services	Cost + 10%
Auto Mileage	Current IRS Rate

\*\*\* 40 hrs per week assumed; part-time rates can be provided upon request  
Rates also subject to prevailing wage mandatory increases during a calendar year



**MASTER AGREEMENT FOR  
WATER AND WASTEWATER ASSET MANAGEMENT SERVICES  
HDR ENGINEERING, INC.**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of June, 2025, but effective July 1, 2025, by and between the City of Carlsbad, California, a municipal corporation, ("City"), and HDR Engineering, Inc., a Nebraska corporation ("Contractor").

**RECITALS**

- A. City requires the professional services of a consultant that is experienced in water and wastewater asset management services.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to water and wastewater asset management services.
- D. Contractor has submitted a proposal to the city responsive to Request for Qualifications RFQ25-3437CA and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, City and Contractor agree as follows:

**1. SCOPE OF WORK**

City retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A", which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective for a period of three (3) years from July 1, 2025, through June 30, 2028. The City Manager may amend the Agreement to extend it for two (2) additional one (1) year(s) periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, City needs, and appropriation of funds by the City Council. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by City and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the City Manager or the Division Director ("Director") as authorized by the City Manager. The City Manager or Director will give allowance for

documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight on the part of Contractor, or delays caused by City inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed five hundred thousand dollars (\$500,000). Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, City shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for City, the City Manager or Director, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

If the City elects to extend the term of the Master Services Agreement, adjustments to the rate schedule may be permitted. Upon receipt of a written request from the Contractor, the City may consider approving a rate schedule increase. Rate schedule increases will be considered for each anniversary of the Agreement effective date after the initial three-year term. An increase to the rate schedule will be calculated based on the proceeding 12-month percentage change in the Consumer Price Index, San Diego Area, for All Urban Customers (CPI-U), as reported by the Bureau of Labor Statistics or 5.0%, whichever is lower. If the CPI-U is a negative number, then the rate schedule will not be adjusted for that year. The Contractor must submit a request and justification to increase the rate schedule at least sixty days prior to the anniversary of the effective date, assuming the City opt to extend the Master Services Agreement. The justification accompanying the written request should detail the rationale for the requested adjustment, and the requested adjustment amount, supported by relevant documentation (e.g., CPI-U or 5.0%, whichever is less). Approval of rate schedule increase by the City must be documented in an amendment to the Agreement.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California

Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize the Owner's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. The Contractor is required to create a free web-based Procore user account(s) and utilize web-based training / tutorials (as needed) to become familiar with the system. Unless the Engineer approves otherwise, the Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. The Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of the Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that the Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, RFIs, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

## **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of City. Contractor will be under control of City only as to the result to be accomplished, but will consult with City as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of City for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. City will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. City will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify City within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which City may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At the City's election, City may deduct the indemnification amount from any balance owing to Contractor.

**9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

**10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of City. If Contractor subcontracts any of the Services, Contractor will be fully responsible to City for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and City. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by City.

**11. OTHER CONTRACTORS**

The City reserves the right to employ other Contractors in connection with the Services.

**12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by the City), indemnify, and hold harmless the City and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation program is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

**13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current

Best's Key Rating of not less than "A-:VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

13.1 Coverages and Limits. Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability (CGL) Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to City's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 The City will be named as an additional insured on Commercial General Liability which shall provide primary coverage to the City.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to City sent by certified mail pursuant to the Notice provisions of this Agreement.





Phone 442-339-2767

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

**19. GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

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**23. TERMINATION**

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City may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to City. In the event of termination of this Agreement by either party and upon request of City, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to City. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. City will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, City will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any Agreement claim submitted to City must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to City, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If City seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon City and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of City, which shall not be unreasonably withheld.



**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the City and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract, and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}

CONTRACTOR  
HDR ENGINEERING, INC., a Nebraska  
corporation

CITY OF CARLSBAD, a municipal  
corporation of the State of California

By: Anna Lantin

By:

\_\_\_\_\_  
(sign here)

\_\_\_\_\_  
Keith Blackburn, Mayor

\_\_\_\_\_  
Anna Y. Lantin, Vice President  
(print name/title)

ATTEST:

SHERRY FREISINGER, City Clerk

By:

By:

\_\_\_\_\_  
(sign here)

\_\_\_\_\_  
Faviola Medina,  
Director of Constituent & Clerk Services

\_\_\_\_\_  
(print name/title)

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

**Group A**  
Chairman,  
President, **or**  
Vice-President

**Group B**  
Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, City Attorney

BY: Cindie K. McMahon

## EXHIBIT A

### SCOPE OF SERVICES AND FEES

Perform a variety of tasks related to water and wastewater asset management, as outlined in the individual Project Task Descriptions and Fee Allotments (PTD&FA), including but not limited to the following:

- A. Capital planning software use, configuration and support.
- B. Condition assessment analysis and project support.
- C. Estimated useful life guidance.
- D. Development of risk criteria and decision logic.
- E. Rehabilitation and replacement planning.
- F. GIS and asset data support.
- G. Asset management and business process support.
- H. Regulatory reporting and documentation related to water and wastewater infrastructure (WDR/SSMP, risk and resilience, emergency response).

Requests for work not listed above must be contracted under separate agreement.



## Discipline 18: Water/Wastewater Asset Management

### ATTACHMENT B-MASTER SERVICES AGREEMENT RATE SCHEDULE

PRICES VALID THROUGH TERM OF AGREEMENT

STAFF			
	NAME	TITLE	HOURLY RATE
1.	Tom McCormack	Project Manager	\$285
2.	Joseph Nye	Principal-in-Charge	\$398
3.	Eric Scherch	Quality Manager	\$385
4.	Dean Gipson	Regulatory Support Lead	\$398
5.	Mike Flores	Senior Asset Management	\$398
6.	Dan Ellison	Senior Condition Assessment	\$398
7.	Leanne Hammond	Senior Planning Engineer	\$395
8.	Dave Spencer	Linear Asset Management Lead	\$380
9.	Mandira Sudame	Senior Engineer II	\$375
10.	Stephen Beppler	Senior Engineer I	\$350
11.	Badri Badriyha	Senior Engineer	\$300
12.	Al Ribachonek	Condition Assessment III	\$295
13.	Marc Wegner	Condition Assessment III	\$295
14.	Mersedeh Akhoondan	Condition Assessment II	\$240
15.	Steven Pierce	Condition Assessment I	\$180
16.	Lucy Jaramillo	External Condition Assessment Lead	\$210
17.	Alice Wang	Project Engineer II	\$230
18.	Amanda Leopard	Asset Management II	\$235
19.	Kanchan Joshi	Asset Management I	\$185
20.	Yuying Li	Senior GIS Analyst	\$265
21.	Anders Burvall	GIS Analyst II	\$225
22.	Sharon Jacob	GIS Analyst I	\$140
23.	Elisa Rivera	Staff Engineer I	\$155
24.	Carmen Sandoval	Accountant	\$160
25.	Chelsea Feller	Project Coordinator	\$130
26.	Katherine Murray	Document Specialist	\$140

Discipline 18: Water/Wastewater Asset Management (cont'd.)

ATTACHMENT B-MASTER SERVICES AGREEMENT RATE SCHEDULE  
PRICES VALID THROUGH TERM OF AGREEMENT

SUBCONSULTANTS			
	NAME/FIRM	TITLE	HOURLY RATE
1.	N/A	N/A	N/A

EXPENSES			
	DESCRIPTION	COST	% MARKUP
1.	Mileage	\$0.67 per mile, or as permitted by the IRS	5%
2.	Printing - B&W 8.5 x 11	\$0.05 per sheet	5%
3.	Printing - Color 8.5 x 11	\$0.15 per sheet	5%
4.	Mailing	at cost	5%

**RESOLUTION NO. 1775**

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE CARLSBAD MUNICIPAL WATER DISTRICT OF THE CITY OF CARLSBAD, CALIFORNIA, APPROVING 25 MASTER AGREEMENTS WITH CONSULTING FIRMS TO PROVIDE PROFESSIONAL SERVICES FOR AN AMOUNT NOT TO EXCEED \$15,100,000

WHEREAS, the Carlsbad Municipal Water District Board of Directors, or CMWD Board, has determined that securing access to a diverse pool of available consultants for professional services that facilitate timely completion of departmental and Capital Improvement Program projects is needed; and

WHEREAS, staff posted a request for qualifications, then received and reviewed statements of qualifications for professional services consistent with Carlsbad Municipal Code Section 3.28.060; and

WHEREAS, following a thorough evaluation and ranking of the statements of qualifications using a weighted scoring system, staff recommend awarding agreements to the firms determined to be most qualified and capable of providing the best value to the CMWD; and

WHEREAS, these recommendations apply to three disciplines, horizontal construction management and inspection, materials testing, and vertical construction management and inspection, for the term of Aug. 18, 2025, through Aug. 17, 2028, and to all other disciplines for the term of July 1, 2025, through June 30, 2028; and

WHEREAS, each agreement will have an initial term of three years, with the option of up to two additional one-year extensions, or portions thereof, at the discretion of the Executive Manager; and

WHEREAS, the recommended firms are:

1. Geotechnical services, Twining, Inc. (Attachment A)
2. Geotechnical services, Ninyo & Moore Geotechnical & Environmental Sciences Consultants (Attachment B)
3. Horizontal construction management and inspection, Arcadis U.S., Inc. (Attachment C)
4. Horizontal construction management and inspection, CPM Partners, Inc. (Attachment D)
5. Horizontal construction management and inspection, Kleinfelder Construction Services, Inc. (Attachment E)
6. Horizontal construction management and inspection, Valley CM, Inc. dba Valley Construction Management (Attachment F)
7. Materials testing, Atlas Technical Consultants, LLC (Attachment G)
8. Materials testing, Ninyo & Moore Geotechnical & Environmental Sciences Consultants (Attachment H)
9. Materials testing, NV5, Inc. (Attachment I)
10. Materials testing, Verdantas, Inc. (Attachment J)
11. Surveying, Right-of-Way Engineering Services, Inc. (Attachment K)
12. Surveying, O'Day Consultants, Inc (Attachment L)

13. Utilities hydraulic modeling, Burns & McDonnell Western Enterprises, Inc. (Attachment M)
14. Utilities hydraulic modeling, Kennedy/Jenks Consultants, Inc. (Attachment N)
15. Utility locating/potholing, AirX Utility Surveyors, Inc. (Attachment O)
16. Utility locating/potholing, GUIDA (Attachment P)
17. Vertical construction management and inspection, CPM Partners, Inc. (Attachment Q)
18. Vertical construction management and inspection, New City Consulting, Inc. (Attachment R)
19. Vertical construction management and inspection, Schneider CM, Inc. (Attachment S)
20. Vertical construction management and inspection, WSP USA, Inc. (Attachment T)
21. Water and recycled water planning, Eagle Aerial Photography, Inc. dba Eagle Aerial Solutions (Attachment U)
22. Water and recycled water engineering, Carollo Engineers, Inc. (Attachment V)
23. Water and recycled water engineering, Dudek (Attachment W)
24. Water and recycled water engineering, Water Systems Consulting, Inc. (Attachment X)
25. Water/wastewater asset management, HDR Engineering, Inc. (Attachment Y)

NOW, THEREFORE, BE IT RESOLVED by the Carlsbad Municipal Water District Board of the City of Carlsbad, California, as follows:

1. That the above recitations are true and correct.
2. That the CMWD Board has determined that the proposed action is not a project as defined by California Environmental Quality Act (CEQA) under California Public Resources Code Section 21065 and CEQA Guidelines Section 15378(a) and does not require environmental review under CEQA Guidelines Section 15060(c)(2) because the action is limited to the execution of master agreements with consulting firms for professional services. The action has no potential to cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment.
3. That the attached 25 master agreements (Attachments A through Y) are approved in a total amount not to exceed \$15,100,000.
4. That the President is authorized and directed to execute the attached 25 master agreements on behalf of the CMWD Board.
5. That the Executive Manager, or designee, is authorized to sign, on behalf of the CMWD, future project task descriptions and fee allotments issued under these master agreements.
6. That the Executive Manager is further authorized to execute amendments to extend the agreements for up to two additional one-year periods, or portions thereof.

PASSED, APPROVED AND ADOPTED at a Special Meeting of the Board of Directors of the Carlsbad Municipal Water District of the City of Carlsbad on the 24th day of June, 2025, by the following vote, to wit:

AYES: Blackburn, Bhat-Patel, Acosta, Burkholder, Shin.

NAYS: None.

ABSTAIN: None.

ABSENT: None.

---

KEITH BLACKBURN, President

---

SHERRY FREISINGER, Secretary  
(SEAL)



**MASTER AGREEMENT FOR GEOTECHNICAL SERVICES  
TWINING, INC.**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of June, 2025, but effective July 1, 2025, by and between the Carlsbad Municipal Water District, a Public Agency organized under the Municipal Water Act of 1911, and a Subsidiary District of the City of Carlsbad, California ("CMWD"), and Twining, Inc., a California corporation ("Contractor").

**RECITALS**

- A. CMWD requires the professional services of a consultant that is experienced in geotechnical services.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to geotechnical.
- D. Contractor has submitted a proposal to CMWD responsive to Request for Qualifications RFQ25-3437CA and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, CMWD and Contractor agree as follows:

**1. SCOPE OF WORK**

CMWD retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A", which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective for a period of three (3) years from July 1, 2025, through June 30, 2028. The Executive Manager may amend the Agreement to extend it for two (2) additional one (1) year(s) periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, CMWD needs, and appropriation of funds by the CMWD Board of Directors. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by CMWD and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the Executive Manager or General Manager as authorized by the Executive Manager. The Executive Manager or General Manager will give

allowance for documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight on the part of Contractor, or delays caused by CMWD inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed five hundred thousand dollars (\$500,000). Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, CMWD shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for CMWD, the Executive Manager or General Manager, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

If CMWD elects to extend the term of the Master Services Agreement, adjustments to the rate schedule may be permitted. Upon receipt of a written request from the Contractor, CMWD may consider approving a rate schedule increase. Rate schedule increases will be considered for each anniversary of the Agreement effective date after the initial three-year term. An increase to the rate schedule will be calculated based on the proceeding 12-month percentage change in the Consumer Price Index, San Diego Area, for All Urban Customers (CPI-U), as reported by the Bureau of Labor Statistics or 5.0%, whichever is lower. If the CPI-U is a negative number, then the rate schedule will not be adjusted for that year. The Contractor must submit a request and justification to increase the rate schedule at least sixty days prior to the anniversary of the effective date, assuming CMWD opt to extend the Master Services Agreement. The justification accompanying the written request should detail the rationale for the requested adjustment, and the requested adjustment amount, supported by relevant documentation (e.g., CPI-U or 5.0%, whichever is less). Approval of rate schedule increase by CMWD must be documented in an amendment to the Agreement.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California

Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize the Owner's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. The Contractor is required to create a free web-based Procore user account(s) and utilize web-based training / tutorials (as needed) to become familiar with the system. Unless the Engineer approves otherwise, the Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. The Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of the Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that the Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, RFIs, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

## **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of CMWD. Contractor will be under the control of CMWD only as to the result to be accomplished, but will consult with CMWD as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of CMWD for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. CMWD will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. CMWD will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify CMWD and the City of Carlsbad within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which CMWD may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At CMWD's election, CMWD may deduct the indemnification amount from any balance owing to Contractor.

**9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

**10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of CMWD. If Contractor subcontracts any of the Services, Contractor will be fully responsible to CMWD for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and CMWD. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by CMWD.

**11. OTHER CONTRACTORS**

CMWD reserves the right to employ other Contractors in connection with the Services.

**12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by CMWD), indemnify and hold harmless CMWD and the City of Carlsbad and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense CMWD or the City of Carlsbad incurs or makes to or on behalf of an injured employee under CMWD's self-administered workers' compensation is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

**13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current

Best's Key Rating of not less than "A-VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

13.1 Coverages and Limits. Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to CMWD's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 CMWD will be named as an additional insured on General Liability which shall provide primary coverage to CMWD.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to CMWD sent by certified mail pursuant to the Notice provisions of this Agreement.



Phone 442-339-2767

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

**19. GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or CMWD will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, CMWD may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If CMWD decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, CMWD may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by CMWD and all work in progress to CMWD address contained in this Agreement. CMWD will make a determination of fact based upon the work product delivered to CMWD and of the percentage of work

that Contractor has performed which is usable and of worth to CMWD in having the Agreement completed. Based upon that finding CMWD will determine the final payment of the Agreement.

CMWD may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to CMWD. In the event of termination of this Agreement by either party and upon request of CMWD, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to CMWD. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. CMWD will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, CMWD will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any agreement claim submitted to CMWD must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to CMWD, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If CMWD seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon CMWD and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of CMWD, which shall not be unreasonably withheld.



**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the CMWD and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract, and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}

CONTRACTOR  
TWINING, INC., a California corporation

CARLSBAD MUNICIPAL WATER DISTRICT, a  
Public Agency organized under the  
Municipal Water Act of 1911, and a  
Subsidiary District of the City of Carlsbad

By:

*Paul Soltis*

By:

Keith Blackburn, President

Paul Soltis, Vice President,  
Geotechnical Operations  
(print name/title)

ATTEST:

SHERRY FREISINGER, Secretary

By:

(sign here)

By:

Faviola Medina,  
Director of Constituent & Clerk Services

(print name/title)

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

**Group A**  
Chairman,  
President, **or**  
Vice-President

**Group B**  
Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, General Counsel

BY: *Cindie K. McMahon*

**EXHIBIT A**

**SCOPE OF SERVICES AND FEES**

Perform a variety of tasks related to geotechnical services, as outlined in the individual Project Task Descriptions and Fee Allotments (PTD&FA), including but not limited to the following:

- A. Geotechnical Investigations.
- B. Hazardous Material Evaluations.
- C. Materials Testing.
- D. Groundwater Monitoring Well Installations.

Requests for work not listed above must be contracted under separate agreement.

**ATTACHMENT B –MASTER SERVICES AGREEMENT RATE SCHEDULE**

Prices valid through Term of Agreement

<b><u>STAFF</u></b>			
	<b><u>NAME</u></b>	<b><u>TITLE</u></b>	<b><u>HOURLY RATE</u></b>
1.	Paul Soltis	Registered Geotechnical Engineer/Project Executive	\$185/hour
2.	Liangcai He	Registered Geotechnical Engineer	\$185/hour
3.	Hossein Bahmyari	Project Manager	\$170/hour
4.	Jon Browning	Certified Engineering Geologist	\$155/hour
5.	Adrian Moreno	Senior Project Engineer	\$145/hour
9.	<b><i>See Twining's Schedule of Fees beginning on page 2 for additional information.</i></b>		
10.			

<b><u>SUB-CONSULTANTS</u></b>			
	<b><u>NAME/FIRM</u></b>	<b><u>TITLE</u></b>	<b><u>HOURLY RATE</u></b>
1.	Travis Stravasnik / EnSafe	Senior Scientist/Engineer	\$180/hour
2.	<b><i>See Gregg's Schedule of Fees beginning on page 7 for additional information.</i></b>		
3.			
9.			
10.			

<b><u>EXPENSES</u></b>			
	<b><u>DESCRIPTION</u></b>	<b><u>COST</u></b>	<b><u>% MARKUP</u></b>
1.	Mileage	\$0.70/mile	N/A
2.			
3.			
4.			

**Minimum Charges** (Inspection and Technician Personnel Only - Other Personnel Charged on Portal to Portal Basis)

- » 2-Hour Minimum: Inspector arrives at jobsite, no work to perform
- » 4-Hour Minimum: 1 to 4 hours of inspection
- » 8-Hour Minimum: Over 4 to 8 hours of inspection



## Schedule of Fees ~~2024-2027~~

NOTE: Fee schedule presented will remain firm for the three (3) year term of the Master Services Agreement

Personnel Rates: Per Hour Unless Otherwise Noted

Task Code	Engineering And Consulting Personnel	Rate
10026	Senior Principal Advisor/Consultant	\$ 185.00
10001	Principal Engineer/Geologist	\$ 185.00
70000	Registered Geotechnical Engineer	\$ 185.00
10010	Technical Advisor	\$ 170.00
10011	Material Scientist, Welding/NDT Consultant	\$ 170.00
70003	Registered Geologist/Certified Engineering Geologist	\$ 155.00
10003	Senior Engineer/Geologist	\$ 145.00
10009	Registered Civil Engineer	\$ 170.00
10013	Project Engineer/Manager	\$ 170.00
10005	Senior Staff Engineer/Geologist	\$ 145.00
10007	Staff Engineer/Geologist	\$ 145.00
70107	Field Supervisor	\$ 170.00

Task Code	Field Inspection Personnel	Rate
10101	Concrete/Reinforced Steel Inspector	\$ 125.00
10103	Prestressed/Post Tensioned Inspector	\$ 125.00
10105	Concrete ICC Inspector	\$ 125.00
10109	Drilled-In-Anchor Inspector	\$ 125.00
10111	Gunite/Shotcrete Inspector	\$ 125.00
10113	Masonry Inspector	\$ 125.00
10201	Structural Steel/Welding Inspector	\$ 125.00
10203	AWS Certified Welding Inspector	\$ 125.00
10207	Fireproofing Inspector	\$ 125.00
10501	Lead Inspector	\$ 125.00
10115	Firestop Special Inspector - IFC Premier	\$ 140.00
10117	Firestop Special Inspector - IQP	\$ 140.00
75001	Asphalt Field and Plant Inspector/Technician	\$ 125.00
70103	Pile Driving Inspector	\$ 125.00
70101	Soils Technician	\$ 125.00
10107	Concrete Quality Control (ACI/Caltrans Technician)	\$ 125.00
10122	Wood Framing Inspector	\$ 125.00
10500	Public Works Inspector	\$ 125.00
50003	Field Engineering Technician	\$ 125.00

Task Code	Shop Inspection Personnel	Rate
10301	Structural Steel Fabrication Inspector	\$ 125.00
10309	Batch Plant Quality Control Technician/Inspector	\$ 125.00
10325	Glue-Laminated Fabrication Inspector	Quotation
10328	Pre-Cast Concrete/Pipe Fabrication Inspector	\$ 125.00

Task Code	Nondestructive Testing Personnel	Rate
10401	NDE Ultrasonic Testing Technician	\$ 130.00
10403	NDE Magnetic Particle Testing Technician	\$ 130.00
10405	NDE Dye Penetrant Testing Technician	\$ 130.00
10305	Combination NDE Technician/Welding Inspector	\$ 130.00
10409	Radiographic Testing (Crew Of 2)	Quotation
10020	NDE Engineer	\$ 255.00

Task Code	Equipment Usage (Daily Unless Otherwise Noted)	Rate
95318	Skidmore	\$ 51.00
95309	Torque Wrench, Small	\$ 21.00
95312	Torque Wrench, Large	\$ 32.00

Task Code	Concrete Specimen Preparation	Rate
20151	Sawing Of Specimens (Each)	\$ 54.00
20157	Coring Of Specimens In Lab (Each)	\$ 54.00
20159	Grinding Of Concrete Below 6000 psi Strength (Each)	\$ 97.00
20160	Grinding Of Concrete 6000 psi Strength And Above (Each)	\$ 118.00

Task Code	Laboratory Trial Batch: Concrete, Cement And Mortar	Rate
30216	Compression Test 4" x 8" Cylinders Made And Tested In Laboratory (ASTM C192, C35)	\$ 63.00
30217	Compression Test 6" x 12" Cylinders Made And Tested In Laboratory (ASTM C192, C35)	\$ 73.00
30219	6" x 6" x 18" Flexural Beams Made And Tested In Laboratory (ASTM C192, C78)	\$ 150.00
30223	Splitting Tensile Strength Cylinders Made And Tested In Laboratory (ASTM C192, C496)	\$ 150.00
30225	Modulus Of Elasticity Test Cylinders Made And Tested In Laboratory (ASTM C192, C469)	\$ 364.00
30227	Density Of Structural Lightweight Concrete Made In Laboratory, Equilibrium or Oven Dry Method (ASTM C567)	\$ 124.00
30237	Bulk Electrical Resistivity (ASTM C1876)	\$ 188.00
30201	Laboratory Trial Batch (ASTM C192/Lab Procedure Performance)	\$ 589.00
30203	Concrete Mixture Design For Preconstruction Evaluation And Backup Data Development	\$ 343.00

Task Code	Equipment Usage (Daily Unless Otherwise Noted), Continued	Rate
95315	Torque Multiplier	\$ 48.00
95321	Air Meter	\$ 37.00
95322	Unit Weight Bucket	\$ 28.00
95323	Field Concrete Scale	\$ 37.00
95324	2" x 2" x 2" Mold	\$ 26.00
95343	Nuclear Gauge (Per Hour)	\$ 13.00
95319	Sand Cone Density Test Equipment	\$ 60.00
95333	Pull Test Equipment	\$ 74.00
95348	Concrete/Asphalt Coring Equipment	\$ 720.00
95336	Floor Flatness (Dipstick)	\$ 63.00
95330	Schmidt Hammer	\$ 48.00
95341	Vapor Emission Test Kits	\$ 58.00
95342	Relative Humidity Probe	\$ 90.00
95339	UPV (Ultrasonic Pulse Velocity) Meter	\$ 420.00
95351	Fireproofing Adhesion/Cohesion (Per Test)	\$ 42.00
95300	A Scan Ultrasonic Equipment And Consumables	\$ 100.00
95303	Magnetic Particle Equipment And Consumables	\$ 53.00
95306	Liquid Penetrant Consumables	\$ 48.00
95307	Phased Array Ultrasonic Equipment (Per Hour)	\$ 105.00
95347	Ground Penetrating Radar	\$ 399.00
95345	Impact Echo	\$ 405.00
95362	Ultrasonic Tomography	\$ 525.00
95349	Inertial Profiler (Per Hour)	Quotation
95352	Borescope	\$ 315.00
95356	Infrared Camera	\$ 105.00
95357	Project Dedicated Vehicle	\$ 189.00
95364	Roller Compacted Concrete Vibrating Hammer/Tamping Plate	\$ 84.00
95367	Half-Cell Potential Equipment Set	\$ 405.00
95368	Concrete Electrical Resistivity Meter	\$ 189.00
95369	Field Hardness (Steel)	\$ 116.00
95370	Coating Thickness Gauge	\$ 166.00
95373	Curing Box (Not Temperature Controlled, One-Time Fee/ Per Box)	\$ 788.00
95371	Temperature Control Curing Box (Per Month)	\$ 525.00
95372	Temperature Matching Curing Box (Per Month)	\$ 599.00

Task Code	Specimen Pick-Up	Rate
20100	Soil/Aggregate Sample (Each)	\$ 10.00
20102	Standard Sample: Concrete Cylinders (Each)	\$ 10.00
20101	Standard Sample: Mortar/Grout Cubes And Cores, Fireproofing, Rebar, And Epoxy Prisms (Each)	\$ 10.00
20103	Oversize Sample: Masonry Prisms And Shotcrete Panels (Each)	\$ 94.00
20104	Oversize Sample: Flexural Beams (Each)	\$ 94.00
20107	Technician For Specimen Pick-Up Not Listed Above (Per Hour, 2-Hour Minimum)	\$ 160.00
20109	Technician For Specimen Pick-Up Before 5:00 a.m. Or After 5:00 p.m. Monday Thru Friday, Or All Day Saturday (Per Hour, 2-Hour Minimum Plus Mileage)	\$ 220.00

Task Code	Jobsite Trailer, Mobile Or On-site Laboratory	Rate
95360	Portable Or Mobile Laboratory Unit	Quotation
95374	Jobsite Trailer, Conex, Or Equipment Storage Box	Quotation

Task Code	Concrete Tests (Field Made Specimens)	Rate
20201	6" x 12" Cylinder Compression Strength (ASTM C39)	\$ 38.00
20202	4" x 8" Cylinder Compression Strength (ASTM C39)	\$ 38.00
20203	Density Of Structural Lightweight Concrete Equilibrium Oven Dry Method (ASTM C567)	\$ 107.00
20205	Core Compression Including Trimming (ASTM C42)	\$ 97.00
20207	6" x 6" x 18" Flexural Beams Not Exceeding Referenced Size (ASTM C78, C293 or CTM 523)	\$ 134.00
20209	Splitting Tensile Strength (ASTM C496)	\$ 134.00
20211	Modulus Of Elasticity Test (ASTM C469)	\$ 348.00
80003	Rapid Chloride Permeability Test: Cylinders Or Cores (ASTM C1202)	\$ 610.00
80006	Density, Absorption, And Voids In Hardened Concrete (ASTM C642)	\$ 610.00
40005	Flexural Toughness (ASTM C1609, Formerly ASTM C1018)	\$ 963.00
40006	Double Punch Strength Of Fiber Reinforced Concrete	\$ 642.00
40009	Coefficient Of Thermal Expansion Of Concrete (CRD 39, AASHTO T336)	\$ 696.00
40012	Bulk Electrical Resistivity (One Age Of Testing, ASTM C1876)	\$ 172.00
80013	Flexural Tensile Strength Of Metallic Fiber Reinforced Concrete Beam (EN 14651)	\$ 1,070.00

Task Code	Qualification Of Cements	Rate
80100	Chemical Analysis Of Portland Cement Per Standard Requirements (ASTM C150)	\$ 803.00



30205	Drying Shrinkage Up To 28 Days, Three 3" x 3" Or 4" x 4" Bars, Five Readings Up To 28 Dry Days (ASTM C157)	\$	557.00
30230	Additional Reading, Per Set Of Three Bars	\$	65.00
30231	Storage Over Ninety (90) Days, Per Set Of Three Bars, Per Month	\$	54.00
30207	Setting Time Up To 7 Hours (ASTM C403)	\$	214.00
30209	Bleeding (ASTM C232)	\$	193.00
30229	Concrete Restrained Expansion (ASTM C878)	\$	749.00
30211	Mix, Make and Test Mortar or Grout Specimens for Compressive Strength: Set of 6 (ASTM C878)	\$	642.00
20263	Non-Shrink Grout: Height Change After Final Set (ASTM C1090)	\$	642.00
20265	Non-Shrink Grout: Height Change At Early Age (ASTM C827)	\$	910.00
30232	Cracking Resistance, Set Of Three Rings, Laboratory Trial Batching, Test Until Cracking Or Up To 28 Days (ASTM 1581)	\$	6,634.00
30233	Evaluation Of Pre-Packaged Masonry Mortars (ASTM C270)	\$	1,391.00
30234	Creep (ASTM C512) (One Age Of Loading, 12 Months Duration Of Testing)	\$	9,095.00
80198	Laboratory Development Of Strength-Maturity Curve Without Establishing Datum Temperature (Up To 5 Testing Ages, ASTM C1074)	\$	3,424.00
80199	Laboratory Development Of Strength-Maturity Curve With Establishing Datum Temperature (Up To 5 Testing Ages, ASTM C1074)	\$	5,664.00
<b>Task Code</b>	<b>Evaluation of Mixing Water for Concrete</b>	<b>Rate</b>	
80246	Evaluation Of Mixing Water For Concrete Per The Requirements Of ASTM C1602, Table 1 (Physical Properties Of Mortar), Per Sample	\$	1,070.00
80248	Evaluation Of Mixing Water For Concrete Per The Requirements Of Caltrans, Section 90, Per Sample	\$	1,284.00
<b>Task Code</b>	<b>Concrete - Chemical Analysis, Transport Properties, Service Life Modeling, Petrographic Examination</b>	<b>Rate</b>	
80123	Acid-Soluble Chloride Analysis (ASTM C1152) (Includes Sample Prep)	\$	134.00
80126	Water-Soluble Chloride Analysis (ASTM C1218) (Includes Sample Prep)	\$	161.00
80193	Chloride Diffusion Coefficient Of Cementitious Mixtures By Bulk Diffusion (ASTM C1556)	\$	2,996.00
80159	Bulk Resistivity (ASTM C1876) And Formation Factor	\$	696.00
80204	Chloride Binding Isotherm	\$	910.00
80206	Analytical And Experimental (ASTM C1556) Modeling Of Service Life Of Concrete Per Life-365 Model, Per Mixture Design	\$	8,560.00
80208	Analytical And Experimental (NordTest) Modeling Of Service Life Of Concrete Per FIB Model Code 34, Per Mixture Design	\$	8,560.00
80210	Non-Steady State Chloride Migration Coefficient, NordTest 492	\$	669.00
80212	Petrographic Examination Of Hardened Concrete, Level I (ASTM C856) (Excludes Thin Section), Per Sample	\$	1,750.00
80129	Petrographic Examination Of Hardened Concrete, Level II (ASTM C856) Includes Thin Section, Per Sample	\$	2,250.00
80218	Petrographic Examination Of Hardened Concrete, Level III (ASTM C856/C1723) (Thin Section And SEM/EDX), Per Sample	\$	3,500.00
80222	W/C M Determination (NordTest Build 361)	\$	1,338.00
80224	Examination Of Volumetric Proportions Of Hardened Concrete (ASTM C457), Per Sample	\$	535.00
80228	Air Void Analysis Of Hardened Concrete (ASTM C457), Per Sample	\$	750.00
80232	Electron Microscopy (ASTM C1723)	\$	803.00
80234	Paste Carbonation Analysis, Per Sample	\$	268.00
80238	Insoluble Residue Analysis (ASTM C1324)	Quotation	
80240	Alkali-Silica - Damage Rating Index (DRI), Per Sample	\$	1,338.00
<b>Task Code</b>	<b>Soils And Aggregate Tests, Continued</b>	<b>Rate</b>	
70393	Collapse Potential/Index (ASTM D5333)	\$	232.00
70396	Compressive Strength Of Molded Soil-Cement Cylinders (ASTM D1633)	\$	109.00
70309	Consolidation Test Full Cycle (ASTM 2435, CTM 219)	\$	205.00
70311	Consolidation Test Time Rate Per Load Increment (ASTM D2435, CTM 219)	\$	47.00
70313	Corrosivity Series Sulfate, Cl, pH, Resistivity (CTM 643, 417, and 422)	\$	253.00
70315	Crushed/Fractured Particles (ASTM D5821, CTM 205)	\$	180.00
70317	Direct Shear Test Remolded And/Or Residual (ASTM D3080)	\$	255.00
70319	Direct Shear Test Undisturbed - Slow [CD] (ASTM D3080)	\$	230.00
70321	Direct Shear Test Undisturbed - Fast [CU] (ASTM D3080)	\$	200.00
70378	Durability Index Per Method - A,B,C, or D (ASTM D3744, CTM 229)	\$	220.00
70325	Expansion Index (ASTM D4829, UBC 18-2)	\$	175.00
75004	Fine Aggregate Angularity (ASTM C1252, CTM 234, AASHTO T304)	\$	200.00
30507	Flat And Elongated Particle (ASTM D4791)	\$	250.00
30508	Flat Or Elongated Particle (ASTM D4791)	\$	220.00
70331	Maximum Density Methods A/B/C (ASTM D1557, D698, CTM 216)	\$	195.00
70333	Maximum Density Check Point (ASTM D1557, D698)	\$	70.00
70335	Maximum Density AASHTO C [Modified] (AASHTO T-180)	\$	200.00
70336	Maximum Index Density Vibratory Table (ASTM D4253)	\$	355.00
70337	Moisture Content (ASTM D2216, CTM 226)	\$	30.00
70339	Moisture and Density Ring Sample (ASTM D2937)	\$	30.00

80103	Physical Testing Of Portland Cement Per Standard Requirements (ASTM C150)	\$	803.00
80194	Physical Testing Of Type K Cement, Mortar Expansion (ASTM C806)	\$	803.00
80195	Physical Testing And Chemical Analysis Of Portland Cement Per Standard Requirements (ASTM C150)	\$	1,498.00
80106	Partial Analysis Or Specific Physical Tests	Quotation	
80110	Sulfates Resistance Of Hydraulic Cement (ASTM C1012), 6 Months	\$	3,210.00
80111	Sulfates Resistance Of Hydraulic Cement (ASTM C1012), 12 months	\$	3,531.00
80149	Type 1L Cement (ASTM C595; Excludes Special Properties)	\$	1,498.00
80151	Clinker Microscopy, Per Sample	\$	910.00

**Task Code Physical Testing Of Chemical Admixtures For Concrete Rate**

80196	Qualification Of Admixture (ASTM C494)	Quotation	
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**Task Code Evaluation Of Pozzolans And Slag Cement Rate**

80140	Chemical Analysis Of Fly Ash Per Standard Requirements (ASTM C618)	\$	803.00
80143	Physical Testing Of Fly Ash Per Standard Requirements (ASTM C618)	\$	803.00
80146	Partial Analysis Or Specific Physical Tests	Quotation	
80147	Chemical Analysis And Physical Testing Of Fly Ash Per Standard Requirements (ASTM C1618)	\$	1,498.00
80250	Qualification Of Silica Fume Per Standard Requirements (ASTM C1240)	\$	1,498.00
80252	Qualification Of Slag Cement Per Standard Requirements (ASTM C989)	\$	1,498.00
80254	Effectiveness Of Pozzolans & Slag Cement In Mitigating Expansion Due To ASR (ASTM C441)	\$	1,498.00

**Task Code Mass Concrete - Engineering And Testing Services Rate**

80256	Thermal Control Plan (Without Cooling Pipes) Per A Unique Type Of Placement Of Similar Group Of Placements, Each Plan	\$	9,000.00
80258	Thermal Control Plan (With Cooling Pipes), Per A Unique Type Of Placement Of Similar Group Of Placements, Each Plan	\$	10,500.00
80260	Performance Based Maximum Temperature Difference Laboratory & Analytical Studies, One Concrete Mixture Design	\$	6,000.00

**Task Code Rock And Concrete Aggregates - Petrographic Examination & Special USACE & CRD Tests Rate**

80262	Rock Type Description, Per Sample (Rock Core Or Rock Chunk)	\$	1,000.00
80263	Rock Type Description + XRD Including Clay Analysis, Per Sample	\$	1,500.00
80266	Natural Aggregates - Petrographic Examination (Gravel And Natural Sand Consisting Of Single Rock Type ASTM C295) Each, One Sample	\$	2,750.00
80268	Crushed Aggregates - Petrographic Examination (Crushed Rock And Manufactured Sand Consisting Of Single Rock Type ASTM C295), Each, One Sample	\$	2,750.00
80270	Coarse Aggregate Certification For Deleterious Materials Per Specifications Of USACE, Materials Coarser Than 0.75-Inch Each, One Sample, 200 lb.	\$	6,500.00
80272	Coarse Aggregate Certification For Deleterious Materials Per Specifications Of USACE, 0.75-Inch And Finer Material, Each, One Sample, 25 lb.	\$	5,500.00
80274	Fine Aggregate Certification For Deleterious Materials Per Specifications Of USACE, Each, One Sample	\$	2,750.00
80276	Aggregate, Scratch Hardness (CRD-C 130), Each, One Sample, 25 lb.	\$	500.00

**Task Code Soils And Aggregate Tests Rate**

30503	Abrasion: LA Rattler (ASTM C131)	\$	206.00
30505	Abrasion: LA Rattler (ASTM C535)	\$	217.00
70301	Atterberg Limits/Plasticity Index (ASTM D4318, CTM 204)	\$	165.00
70303	California Bearing Ratio Excluding Maximum Density (ASTM D1883) Soil	\$	598.00
70304	California Bearing Ratio Excluding Maximum Density (ASTM D1883) Cement-Treated Soil	\$	670.00
70344	Cement-Treated Soil/Base Mix Design: Includes Three Trial Cement Contents With Three Unconfined Compressive Strength Specimens Per Cement Content	\$	3,605.00
70305	Chloride And Sulfate Content (CTM 417, CTM 422)	\$	180.00
30403	Clay Lumps And Friable Particles (ASTM C142)	\$	210.00
30321	Cleaness Value 1" x #4 (CTM 227)	\$	180.00
30322	Cleaness Value 1.5" x .75" (CTM 227)	\$	285.00

**Task Code Asphalt Concrete Tests, Continued Rate**

75040	Emulsion Residue, Evaporation (ASTM D244)	\$	175.00
75024	Extraction % Bitumen (ASTM D6307, CTM 382)	\$	175.00
75027	Extraction % Bitumen And Gradation (ASTM D5444, D6307, CTM 202, 382)	\$	240.00
75028	Extraction % Bitumen, Correction Factor (ASTM D6307,	\$	385.00





70341	Moisture and Density Shelby Tube Sample (ASTM D2937)	\$	45.00
70340	Moisture-Density Relations Of Soil-Cement Mixtures Premixed In The Field (ASTM D558)	\$	285.00
70342	Moisture-Density Relations Of Soil-Cement Mixtures Mixed In The Lab (ASTM D558)	\$	365.00
70328	pH Of Soils (ASTM D4972)	\$	65.00
70330	Organic Content Of Soils (ASTM D2974, Method A Only)	\$	90.00
30401	Organic Impurities (ASTM C40, CTM 213)	\$	95.00
70343	Permeability (ASTM D5084)	Quotation	
80001	Potential Reactivity Chemical Method (ASTM C289 - Discontinued Method)	\$	800.00
70394	Potential Reactivity Mortar Bar Expansion Method, 14-Day Exposure (ASTM C1260)	\$	990.00
70391	Potential Reactivity Mortar Bar Expansion Method, 28-Day Exposure (ASTM C1260)	\$	1,100.00
70398	Potential Reactivity Concrete Bar Expansion Method (ASTM C1293), 12 month	\$	2,995.00
70399	Potential Reactivity Concrete Bar Expansion Method (ASTM C1293), 24 month	\$	3,320.00
70397	Potential Reactivity Of Aggregate Combination, Non-Standard Method; 14-Day Exposure, Mortar (After ASTM C1567)	\$	1,175.00
70392	Potential Reactivity Of Aggregate Combination, Non-Standard Method; 28-Day Exposure, Mortar (After ASTM C1567)	\$	1,230.00
70345	R-Value Soil (ASTM D2844, CTM 301)	\$	454.00
70347	R-Value Aggregate Base (ASTM D2844, CTM 301)	\$	505.00
70349	Sand Equivalent (ASTM D2419, CTM 217)	\$	129.00
70351	Sieve #200 Wash Only (ASTM D1140, CTM 202)	\$	93.00
70353	Sieve With Hydrometer 3/4" Gravel To Clay (ASTM D422, D7928, CTM 203)	\$	258.00
70355	Sieve With Hydrometer Sand To Clay (ASTM D422, D7928, CTM 203)	\$	248.00
70357	Sieve Analysis Including Wash (ASTM C136, CTM 202)	\$	155.00
70359	Sieve Analysis Without Wash (ASTM C136, CTM 202)	\$	125.00
70360	Sieve Analysis Split Sieve (ASTM C136, CTM 202)	\$	250.00
70361	Sieve Analysis Without Wash With Cobbles (ASTM C136, CTM 202)	\$	245.00
70363	Soundness Sodium Or Magnesium Sulfate, 5 Cycles (ASTM C88)	\$	464.00
70365	Specific Gravity And Absorption Coarse (ASTM C127, CTM 206)	\$	105.00
70367	Specific Gravity and Absorption Fine (ASTM C128, CTM 207)	\$	170.00
70369	Swell/Settlement Potential One Dimensional (ASTM D4546)	\$	155.00
70371	Triaxial	Quotation	
70373	Unconfined Compression (ASTM D2166, CTM 221)	\$	196.00
30317	Unit Weight Per Cubic Foot (ASTM C29, CTM 212)	\$	129.00
30319	voids In Aggregate With Known Specific Gravity (ASTM C29, CTM 212)	\$	129.00
30411	Lightweight Particles Coarse, with Two Solutions (ASTM C123)	\$	535.00
30412	Lightweight Particles Fine, with One Solution (ASTM C123)	\$	258.00
20807	Method of Test for Relative Mortar Strength of Portland Cement Concrete Sand (CT 515)	\$	1,400.00

Task Code	Asphalt Concrete Tests	Rate
75031	HMA Mixing And Preparation	\$ 140.00
75032	HMA Mixing And Preparation With Aggregate Treatment	\$ 196.00
75033	Bulk Specific Gravity Of Compacted Sample Or Core SSD (ASTM D2726, CTM 308C)	\$ 62.00
75036	Bulk Specific Gravity Of Compacted Sample Or Core Paraffin Coated (ASTM D1188 and CTM 308A)	\$ 88.00

Task Code	Concrete Block, ASTM C140	Rate
20321	Compression	\$ 102.00
20323	Absorption/Moisture Content/Oven Dry Density	\$ 102.00
20327	Linear Shrinkage (ASTM C426)	\$ 295.00
20335	Web And Face Shell Measurements	\$ 59.00
20329	Tension Test	\$ 188.00
20331	Core Compression	\$ 97.00
20333	Shear Test Of Masonry Cores 2 Faces	\$ 118.00
20339	Efflorescence Tests	\$ 91.00

Task Code	Masonry Prisms, ASTM C1314	Rate
20341	Compression Test, Composite Masonry Prisms Up To 8" x 16"	\$ 220.00
20343	Compression Test, Composite Masonry Prisms > 8" x 16"	\$ 295.00
20346	Prism Cord Modulus Of Elasticity	\$ 696.00
20347	Prism Cord Modulus Of Elasticity With Transverse Strain (For Double-Wythe Specimen)	\$ 760.00

Task Code	Mortar And Grout	Rate
20351	Compression 2" x 4" Mortar Cylinders (ASTM C780)	\$ 65.00
20353	Compression 3" x 3" x 6" Grout Prisms, Includes Trimming (ASTM C1019)	\$ 49.00
20355	Compression 2" Cubes (ASTM C109)	\$ 65.00
20357	Compression Cores Includes Trimming (ASTM C42)	\$ 97.00

Task Code	Masonry Specimen Preparation	Rate
20155	Cutting Of Cubes Or Prisms	\$ 81.00

75030	Chemical Extraction % Bitumen And Sieve Analysis (ASTM D2172 Method A or B, ASTM D5444)	\$ 410.00
75042	Lab Tested Maximum Density Hveem, 3 Briquettes (ASTM D1561, D1188, CTM 304, 308)	\$ 235.00
75057	Hveem Stabilometer Test, Premixed, 3 Briquettes (ASTM D1560, D1561, CTM 304, 366)	\$ 235.00
75048	Lab Tested Maximum Density Marshall, 3 Briquettes (ASTM D6926, D2726)	\$ 230.00
75049	Lab Tested Maximum Density Marshall 6" Specimen, 3 Briquettes (ASTM D5581, D2726)	\$ 235.00
75050	Lab Tested Maximum Density Superpave Gyrotory Compacted Briquette, SSD, 1 Briquette (ASTM D6925, D2726)	\$ 90.00
75052	Lab Tested Maximum Density Superpave Gyrotory Compacted Briquette, Paraffin, 1 Briquette (ASTM D1188, D6925)	\$ 100.00
75051	Maximum Theoretical Specific Gravity [RICE] (ASTM D2041, CTM 309)	\$ 180.00
75066	Marshall Stability And Flow, Cored Sample, Each (ASTM D6927)	\$ 90.00
75069	Marshall Stability And Flow, Premixed, 3 Briquettes (ASTM D6926, D6927)	\$ 255.00
75106	Marshall Stability And Flow, Gyrotory Compacted Specimen Pre-Mixed, 3 Briquettes (ASTM D5581, D6925)	\$ 255.00
75107	Marshall Stability And Flow 6" Specimen, Premixed, 3 Briquettes (ASTM D5581)	\$ 255.00
75063	Moisture Content (CTM 370)	\$ 90.00
75005	Wet Track Abrasion Test (ASTM D3910)	\$ 185.00
75093	Hveem Mix Design (Excluding Aggregate Quality Tests)	\$ 6,000.00
75096	Hveem Mix Design, With RAP (Excluding Aggregate Quality Tests, RAP Qualification)	\$ 6,500.00
75099	Hveem Mix Design, With Lime (Excluding Aggregate Quality Tests)	\$ 10,000.00
75094	Hveem Mix Design Caltrans Untreated Mix (Including Aggregate Quality Tests)	\$ 7,000.00
75095	Hveem Mix Design Caltrans Lime Treated Mix (Including Aggregate Quality Tests)	\$ 8,000.00
75084	Marshall Mix Design (Excluding Aggregate Quality Tests)	\$ 6,000.00
75087	Marshall Mix Design With RAP (Excluding Aggregate Quality Tests)	\$ 6,400.00
75090	Marshall Mix Design With Lime (Excluding Aggregate Quality Tests)	\$ 7,000.00
75083	Open Grade Asphalt Concrete Mix Design (ASTM D7064, CTM 368)	\$ 3,500.00
75109	Superpave Mix Design (Excluding Aggregate Quality Tests)	\$ 12,000.00
75113	Superpave Mix Design, With RAP (Excluding Aggregate Quality Tests)	\$ 12,500.00
75114	Superpave Mix Design With Rubber (Excluding Aggregate Quality Tests)	\$ 12,500.00
75115	Superpave Mix Design With Additives (Excluding Aggregate Quality Tests)	\$ 12,700.00
75075	Effect Of Moisture On Asphalt Paving Mixtures, Pre-Mixed (ASTM D4867, AASHTO T283)	\$ 1,200.00
75111	Hamburg Wheel Track Test, 20,000 Passes, 4 Briquettes (AASHTO T324)	\$ 1,300.00
75039	Raveling Test Of Cold Mixed Emulsified Asphalt (ASTM D7196)	\$ 225.00
75067	Marshall Stability, Wet Set, 3 Replicates (AASHTO T245)	\$ 390.00
75068	Marshall Stability, Dry Set, 3 Replicates (AASHTO T245)	\$ 330.00
75070	Cold Recycled Asphalt Mix Design 2 Gradings Each, 3 Emulsion Content (Caltrans LP-8)	\$ 11,600.00

Task Code	Mortar And Stucco - Petrographic Examination	Rate
80282	Stucco, One-Coat (ASTM C856), Includes Thin Section), Per Sample	\$ 2,250.00
80286	Stucco, Two-Coat (ASTM C856), Includes Thin Section), Per Sample	\$ 2,500.00
80290	Stucco, Three-Coat (ASTM C856), Includes Thin Section), Per Sample	\$ 3,000.00
80294	Mortar (ASTM C1324, Petrographic Examination And Chemical Analysis), Per Sample	\$ 3,250.00

Task Code	Brick Masonry Tests, ASTM C67	Rate
20301	Modulus Of Rupture Flexural	\$ 118.00
20303	Compression Strength	\$ 81.00
20305	Absorption 5 Hour or 24 Hour	\$ 86.00
20307	Absorption (Boil) 1, 2 Or 5 Hours	\$ 118.00
20309	Initial Rate Of Absorption	\$ 75.00
20311	Efflorescence	\$ 91.00
20313	Cores Compression	\$ 97.00
20315	Shear Test On Brick Cores 2 Faces	\$ 118.00

Task Code	Metal and Steel Testing, Continued	Rate
20619	Hardness Test (ASTM E18)	\$ 91.00
20630	Bolt Axial Tensile Test (Up To 7/8" Diameter)	\$ 75.00
20631	Bolt Wedge Tensile Test (Up To 7/8" Diameter)	\$ 91.00
20632	Bolt Axial Tensile Test (Greater Than 7/8" Up To 1" diameter)	\$ 97.00
20633	Bolt Wedge Tensile Test (Greater Than 7/8" Up To 1" Diameter)	\$ 118.00
20634	Bolt Axial Tensile Test (Greater Than 1" Diameter)	\$ 140.00
20635	Bolt Wedge Tensile Test (Greater Than 1" Diameter)	\$ 150.00



Task		
Code	Fireproofing Tests	Rate
20401	Oven Dry Density (ASTM E605)	\$ 97.00

Task		
Code	Gunite And Shotcrete Tests	Rate
20361	Core Compression Including Trimming (ASTM C42)	\$ 113.00
20365	Compression Cubes (Includes Saw Cutting)	\$ 81.00

Task		
Code	Concrete Roof Fill: Gypsum, Vermiculite, Perlite, Lightweight Insulating Concrete, Etc.	Rate
20371	Compression Test (ASTM C495 and C472)	\$ 81.00
20373	Air Dry Density (ASTM C472)	\$ 70.00
20379	Oven Dry Density (ASTM C495)	\$ 97.00

Task		
Code	Reinforcing Steel, ASTM A615, A706	Rate
20501	Tensile Test #11 Or Smaller	\$ 81.00
20503	Bend Test #11 Or Smaller	\$ 75.00
20504	Bend Test #14 Or #18	\$ 428.00
20505	Tensile Test #14	\$ 321.00
20507	Tensile Test #18	\$ 418.00

Task		
Code	Reinforcing Steel - Welded Or Coupled Specimens	Rate
20521	Tensile Test Welded/Coupled #11 And Smaller	\$ 91.00
20523	Tensile Test Welded/Coupled #14	\$ 311.00
20525	Tensile Test Welded/Coupled #18	\$ 439.00
20529	Weld Macroetch	\$ 102.00
20531	Slippage Test - Caltrans (CTM 670)	\$ 236.00
20532	Tensile Test Welded Hoops #11 And Smaller	\$ 182.00

Task		
Code	Metal and Steel Testing	Rate
20601	Tensile Strength Up To 100K Pounds (Each)	\$ 91.00
20603	Tensile Strength Up To 200K Pounds (Each)	\$ 102.00
20605	Tensile Strength Up To 300K Pounds (Each)	\$ 129.00
20607	Tensile Strength Up To 400K Pounds (Each)	\$ 188.00
20609	Tensile Strength 400K To 600K Pounds (Each)	\$ 428.00
20611	Tensile Strength Stress-Strain Percent Offset	\$ 268.00
20545	Weld Macroetch	\$ 102.00
20547	Weld Fracture	\$ 54.00
20615	Bend Test	\$ 86.00
20617	Flattening Test	\$ 86.00

20637	Bolt Proof Load Test (Greater Than 7/8" Up To 1" Diameter)	\$ 124.00
20638	Bolt Proof Load Test (Greater Than 1")	\$ 145.00
20639	Nut Proof Load Test (Up To 7/8")	\$ 81.00
20640	Nut Proof Load Test (Greater Than 7/8" Up To 1" Diameter)	\$ 102.00
20641	Nut Proof Load Test (Greater Than 1")	\$ 113.00

Task		
Code	Chemical Testing Of Metal And Steel	Rate
80170	Steel Chemical Analysis	Quotation
80173	Weight Of Galvanized Coating (ASTM A90)	\$ 97.00
80176	Epoxy Coating Thickness	\$ 107.00
80177	Coating Thickness	\$ 102.00

Task		
Code	Machining And Preparation Of Tensile And Bend Sample: Carbon Steel	Rate
20751	Machinist Initial Preparation From Mock-Up, Etc. (Per Hour)	\$ 156.00
20753	Sawcut To Overall Width (Per 0.5" Thickness Or Fraction Thereof)	\$ 70.00
20755	Machine To Test Configuration Milled Specimens	\$ 102.00
20757	Machine To Test Configuration Turned Specimens (Per 0.5" Thickness Or Fraction Thereof)	\$ 182.00
20759	Prepare Subsize Specimens (Per 0.5" Thickness Or Fraction Thereof)	\$ 124.00

Task		
Code	Charpy Impact	Rate
20621	Charpy Impact Ambient Temperature	\$ 113.00
20623	Charpy Impact Reduced Temperature	\$ 150.00

Task		
Code	Machining Of Charpy Samples: Carbon Steel	Rate
20780	Cutting And Milling (Per 0.5" Or Fraction Thereof)	\$ 102.00
20783	Final Machining To Sample Configuration	\$ 124.00

Task		
Code	Prestressing Wires And Tendons, (ASTM A416)	Rate
20701	Stress-Strain Analysis Wire Or Strands (Including Chart And Percent Offset)	\$ 273.00
20703	Tensile Test Only	\$ 204.00
20705	Tendons	Quotation

Task		
Code	Polymer Matrix Composite Materials (Fiberwrap)	Rate
20706	Tensile Strength - Set of 5 Specimens/Batch/Direction (ASTM D3039)	\$ 1,498.00
20707	Tensile Strength - Additional Specimens (ASTM D3039) (ASTM D3039)	\$ 289.00
20708	Heating Chamber Time - Per 24 Hr. Period	\$ 107.00





## 2024 PROFESSIONAL FEE SCHEDULE

PROFESSIONALS		PER HOUR
Level 1	Scientist/Engineer	\$110
Level 2	Scientist/Engineer	\$120
	Project Supervisor	\$130
Level 3	Project Scientist/	\$145
	Engineer Project Manager	\$155
Level 4	Project Manager, Senior Scientist/Engineer	\$180
Level 5	Senior Project Manager	\$205
Level 6	Senior Project Director	\$225
Level 7	Associate Principal	\$260
	Principal	\$265
Level 8	Senior Principal	\$335
TECHNICIANS		PER HOUR
	Technician	\$80
	Senior Technician	\$100
	Construction Support	\$125
ADMINISTRATIVE SUPPORT		PER HOUR
	Report Specialist	\$70

**Note:**

A general and administrative fee of 15% is added to Other Direct Costs and Expenses. Rates are subject to a surcharge for short lead time projects requiring readjustment of professional resources. Fees for acquisition support are negotiated on an individual basis. Rates are subject to annual review. All internal copying, computer usage, and report materials are included in the above rates unless otherwise negotiated.



All rates effective January 1, 2024

**FEE SCHEDULE**

<b>City of Carlsbad</b>		
<b>Master Services Agreement for Consultants Number: RFQ25-3437CA</b>		
<b>Prime Firm:</b>	<b>Twining, Inc.</b>	
<b>Subconsultant Firm:</b>	<b>Gregg Drilling, LLC</b>	
<b>Proposal Ref</b>	<b>124-0830</b>	
<b>Date</b>	<b>12/31/2024</b>	

**\*RATES ARE ESGLATED 3.5% EVERY JANUARY 1ST, STARTING JANUARY 1st, 2026\***

\* Labor rates or equipment rates to not relect any Project Labor Agreement (PLA) and/or Union fees or dues

\*Surcharge to be applied to all prevailing wage/DBA/SCA projects, including mobilization/de-mobilization

<b>Gregg Drilling</b>	<b>rate</b>	<b>Unit</b>
<b><u>Mud Rotary Drill Rig (Fraste FS400/GEFCO 40K) - 3 person crew</u></b>		
Mobilization/De-Mobilization/Daily Travel	\$ 604.55	Hr
Drilling time / Operating rate	\$ 1,123.50	Hr
Standby / Move / Setup / Development Time	\$ 1,123.50	Hr
Daily Travel Crew (when rig can be left on-site)	\$ 421.31	Hr
Cancellation Fee (within 72-hrs of scheduled start)	\$ 2,500.00	EA
<b><u>Mud Rotary Drill Rig (Fraste MDXL/VersaDrill) - 2 person crew</u></b>		
Mobilization/De-Mobilization/Daily Travel	\$ 529.65	Hr
Drilling time / Operating rate	\$ 779.43	Hr
Standby / Move / Setup / Development Time	\$ 779.43	Hr
Daily Travel Crew (when rig can be left on-site)	\$ 326.35	Hr
Minimum Callout (5 hrs, portal to portal)	\$ 4,988.34	EA
Cancellation Fee (within 72-hrs of scheduled start)	\$ 2,000.00	EA
<b><u>Track-Mounted Mud Rotary Drill Rig (Fraste MDXL) - 2 person crew</u></b>		
Mobilization/De-Mobilization/Daily Travel	\$ 529.65	Hr
Drilling time / Operating rate	\$ 800.00	Hr
Standby / Move / Setup / Development Time	\$ 800.00	Hr
Daily Travel Crew (when rig can be left on-site)	\$ 326.35	Hr
Minimum Callout (5 hrs, portal to portal)	\$ 5,213.08	EA
Cancellation Fee (within 72-hrs of scheduled start)	\$ 2,000.00	EA
<b><u>Hollow Stem Auger Drill - 2 person crew</u></b>		
Mobilization/De-Mobilization/Daily Travel	\$ 449.40	Hr
Drilling time / Operating rate	\$ 589.84	Hr
Standby / Move / Setup / Development Time	\$ 589.84	Hr
Daily Travel Crew (when rig can be left on-site)	\$ 326.35	Hr
Minimum Callout (5 hrs, portal to portal)	\$ 3,774.96	EA
Cancellation Fee (within 72-hrs of scheduled start)	\$ 2,000.00	EA
<b><u>25-Ton CPT Rig - 2 person crew</u></b>		
Mobilization/De-Mobilization/Daily Travel	\$ 529.65	Hr
Drilling time / Operating rate	\$ 674.10	Hr
Standby / Move / Setup / Development Time	\$ 674.10	Hr
Daily Travel Crew (when rig can be left on-site)	\$ 326.35	Hr
Shear Wave Velocity (Vs) Tests	\$ 28.00	EA
Minimum Callout (5 hrs, portal to portal)	\$ 539.28	EA
Cancellation Fee (within 72-hrs of scheduled start)	\$ 2,000.00	EA

<b><u>Truck Direct Push Rig - 2 person crew</u></b>		
Mobilization/De-Mobilization/Daily Travel	\$ 342.40	Hr
Drilling time / Operating rate	\$ 393.23	Hr
Standby / Move / Setup / Development Time	\$ 299.60	Hr
Minimum Callout (5 hrs, portal to portal)	\$ 314.58	Hr
Cancellation Fee (within 72-hrs of scheduled start)	\$ 2,000.00	EA
<b><u>Remediation Services - 3 Person Crew</u></b>		
Mobilization/Demobilization/Daily Travel	\$ 529.65	Hr
Injection Platform with 10 point system, (1) Direct Push Rig	\$ 631.97	Hr
Injection Platform with 10 point system, well injection, 2 man crew	\$ 475.00	Hr
Geoprobe 7822 or Equivalent, 1 crew member	\$ 294.92	Hr
Daily Travel Crew (when rig can be left on-site)	\$ 421.31	Hr
Minimum Callout (5 hrs, portal to portal)	\$ 3,159.85	EA
Cancellation Fee (within 72-hrs of scheduled start)	\$ 2,500.00	EA
<b><u>Air Vacuum - 2 person crew</u></b>		
Mobilization/De-Mobilization/Daily Travel	\$ 262.50	Hr
Operating rate	\$ 294.00	Hr
Standby / Move / Setup	\$ 336.00	Hr
Minimum Callout (5 hrs, portal to portal)	\$ 1,470.00	EA
Cancellation Fee (within 72-hrs of scheduled start)	\$ 2,000.00	EA
<b><u>Development Rig - 1 person crew</u></b>		
Mobilization/De-Mobilization/Daily Travel	\$ 262.50	Hr
Operating rate	\$ 315.00	Hr
Standby / Move / Setup	\$ 315.00	EA
Minimum Callout (5 hrs, portal to portal)	\$ 1,575.00	EA
Cancellation Fee (within 72-hrs of scheduled start)	\$ 1,500.00	EA
<b><u>High Resolution Site Characterization</u></b>		
HRSC Pre-Mobilization/Equipment Check	\$ 795.00	EA
Mobilization/De-Mobilization MiHPT System and Operator	\$ 140.44	Hr
MiHPT System and Operator (up to 8-hrs. on site)	\$ 2,540.00	day
MiHPT Premium Time (over 8-hrs. on site)	\$ 400.00	Hr
Ultraviolet Optical Screening Tool (UVOST)	\$ 2,100.00	day
Saphire Window Replacement	\$ 265.00	EA
Cancellation Fee (within 72-hrs of scheduled start)	\$ 1,500.00	EA
Minimum Callout (5 hrs, portal to portal)	\$ 1,587.50	EA
<b><u>SPT Energy Calibration</u></b>		
Mobilization/De-Mobilization SPT Energy Calibration	\$ 140.44	Hr
SPT Energy Calibration	\$ 3,350.00	EA
SPT Energy Calibration Report (per boring)	\$ 196.61	Hr
<b><u>Dilatometer Testing (DMT)</u></b>		
DMT Pre-Mobilization/Equipment Check	\$ 795.00	EA
Dilatometer Testing (up to 8-hrs, not including CPT rig)	\$ 2,247.00	day
DMT Blade Replacement	\$ 6,575.00	EA
DMT Membrane Replacement	\$ 247.17	EA
DMT Report (per boring)	\$ 196.61	EA
<b><u>Pressure Meter Testing (PMT)</u></b>		
PMT Pre-Mobilization/Equipment Check	\$ 795.00	EA
Mobilization/De-Mobilization PMT	\$ 140.44	Hr
Pressure Meter Testing (PMT) (up to 8-hrs. on site)	\$ 3,350.00	day

PMT Bladder Replacement	\$ 650.00	EA
PMT Report (per boring)	\$ 870.00	EA
<b><u>Packer Testing Testing</u></b>		
Packer Testing Pre-Mobilization/Equipment Check	\$ 795.00	EA
Packer Testing Testing Surcharge (packer equipment only)	\$ 921.27	day
Bladder Replacement	\$ 3,475.00	EA
<b><u>Sub Contractors / Rental Equipment</u></b>		
Sub Contractors	Cost +20%	
Rental Equipment	Cost +20%	
<b><u>*ADDITIONAL LABOR COSTS (Per Man Per Hour)</u></b>		
Additional Technician	\$ 135.00	Hr
<b><i>**Prevailing Wage Surcharge per pers</i></b>	<b>\$ 80.00</b>	<b>Hr</b>
<b><i>**Davis Bacon Act Surcharge per pers</i></b>	<b>\$ 55.00</b>	<b>Hr</b>
<b><i>**Service Contract Act Surcharge per pers</i></b>	<b>\$ 27.00</b>	<b>Hr</b>
<b><i>***Premium Time (over 8-hrs, nights and Saturdays)</i></b>	<b>\$ 80.00</b>	<b>Hr</b>
Premium Time (Sundays, Holidays and over 8-hrs. on Saturdays)	\$ 155.00	Hr
Project Management	\$ 155.00	Hr
Project Assistant	\$ 135.00	Hr
Administrative Assistant	\$ 95.00	Hr
Crane Rigger/Liaison	\$ 175.00	Hr
Service Run	\$ 140.44	Hr
Per Diem (Crew Member/Night)	\$ 350.00	EA
Level C Protection (per day or portion)	\$ 260.00	day
<b><u>SUPPORT EQUIPMENT</u></b>		
Support Truck (pick-up)	\$ 260.00	day
Support Truck (stake-bed)	\$ 410.00	day
Support Truck (Lift Gate)	\$ 465.00	day
Water Truck (up to 2,000 gal.)	\$ 875.00	day
Water Truck (up to 4,000 gal.)	\$ 2,000.00	day
Support Truck (CPT)	\$ 1,300.00	day
Steam Cleaning at Yard	\$ 165.00	ea
Mud System (mud rotary, less than 1500 gal capacity)	\$ 675.00	day
Mud System (mud rotary, 1500-3000 gal capacity)	\$ 1,200.00	day
Track Support Rig (Marooka or similar)	\$ 1,797.60	day
Submersible pump rental	\$ 225.00	day
Horiba meter rental	\$ 135.00	day
Drum trailer rental	\$ 105.00	day
500-water gallon trailer rental	\$ 190.00	day
Personal H2S Meter	\$ 39.32	day
Ventilation / exhaust system rental	\$ 480.00	day
Grout Pump	\$ 365.00	day

<b><u>MATERIALS</u></b>		
Concrete/Asphalt Coring, CPT/DPT Locations (4-in diameter x 6-in thick)	\$ 200.00	EA
Backfill CPT/DPT Test/Sampling Locations	\$ 3.00	lin ft
Backfill Hollow Stem Auger Borings (6-in. diameter)	\$ 9.00	lin ft
Backfill Hollow Stem Auger Borings (8-in. diameter)	\$ 12.00	lin ft
Backfill Rotary/Core Holes up 5-in.	\$ 8.00	lin ft
Backfill Rotary/Core Holes up 8-in.	\$ 12.00	lin ft
1/4" Nylaflow Tubing	\$ 2.20	lin ft
1/2" Poly Tubing	\$ 1.70	lin ft
Vapor Probe Implant - PVC	\$ 18.00	lin ft
Vapor Probe Implant - Stainless 1"	\$ 32.00	lin ft
Vapor Probe Implant - Stainless 6"	\$ 70.00	lin ft
Vapor Probe Valves - 2 way & 3-way	\$ 12.00	lin ft
Hydropunch/Groundwater Sampling Consumables	\$ 95.00	EA
3/4" Sched. 40 PVC Blank casing	\$ 5.00	lin ft
3/4" Sched. 40 PVC Screen 0.010" or 0.020"	\$ 7.00	lin ft
3/4" Sched. 40 PVC fittings	\$ 15.00	lin ft
1" Sched. 40 PVC Blank casing	\$ 7.00	lin ft
1" Sched. 40 PVC Screen 0.010" or 0.020"	\$ 10.00	lin ft
1" Sched. 40 PVC threaded end cap	\$ 15.00	EA
1" Sched. 40 PVC slip cap or coupling	\$ 15.00	EA
2" Sched. 40 PVC Blank casing	\$ 9.00	lin ft
2" Sched. 40 PVC Screen 0.010" or 0.020"	\$ 12.00	lin ft
2" Sched. 40 PVC threaded end cap	\$ 20.00	EA
2" Sched. 40 PVC slip cap or coupling	\$ 20.00	EA
2" Locking Cap	\$ 40.00	EA
4" Sched. 40 PVC Blank casing	\$ 18.00	lin ft
4" Sched. 40 PVC Screen 0.010" or 0.020"	\$ 24.00	lin ft
4" Sched. 40 PVC threaded end cap	\$ 45.00	EA
4" Sched. 40 PVC slip cap or coupling	\$ 45.00	EA
4" Locking Cap	\$ 65.00	EA
Asphalt Patch, for Bore diameter	\$ 25.00	ea
Cement - Portland Type II	\$ 18.00	lin ft
Concrete - Quickset	\$ 30.00	lin ft
Concrete - Ready Mix	\$ 15.00	lin ft
Bentonite Chips	\$ 30.00	lin ft
Bentonite Grout (Enviroplug)	\$ 30.00	lin ft
Bentonite Pellets	\$ 120.00	lin ft
Bentonite Pellets (TR30)	\$ 175.00	lin ft
Filter Sand	\$ 20.00	lin ft
Drill mud	\$ 30.00	bkt
Easy Mud 5-gal	\$ 250.00	bkt
Easy Mud Gold 10lb	\$ 275.00	bkt
Auqa-Clear (5 gal pail)	\$ 420.00	bkt
Soda Ash 50lb	\$ 40.00	bag
Well Box - 12-inch	\$ 175.00	EA
Well Box - 8-inch	\$ 100.00	EA
Standpipe 8"	\$ 480.00	EA
Standpipe 10"	\$ 540.00	EA

## Fee Schedule - Gregg Drilling, LLC

Wood Plug	\$	40.00	EA
3'x3' Form / 2'x2' Form	\$	40.00	EA
Bollards 4" / Crashpost	\$	110.00	EA
Drums - 55 Gallon	\$	100.00	EA
Disposable Bailers	\$	25.00	EA
Disposable Tips	\$	30.00	EA
2" Brass Sample Liners & Caps	\$	12.00	EA
2" Stainless Steel Sample Liners & Caps	\$	12.00	EA
Acetate Sample Liners ( Macro Core 4')	\$	12.00	EA
2.5" x 1" Brass Sample Rings & Canisters,	\$	30.00	EA
ShelbyTube & Caps	\$	80.00	EA
Pitcher Tubes & Caps	\$	80.00	EA
Core Box - Plastic/Cardboard	\$	40.00	EA
Core Box - Wooden	\$	105.00	EA
Slope Indicator Pipe (2.75") - per 10' length	\$	247.17	EA
Slope Indicator Pipe Bottom Cap	\$	44.94	EA
Slope Indicator Pipe Top Cap	\$	44.94	EA
Straw Waddle (20-ft)	\$	50.00	EA
Visqueen (large roll)	\$	180.00	EA

**~~\*RATES ARE ESGLATED 3.5% EVERY JANUARY 1ST, STARTING JANUARY 1st, 2026\*~~**

\* Labor rates or equipment rates to not relect any Project Labor Agreement (PLA) and/or Union fees or dues

\*Surcharge to be applied to all prevailing wage/DBA/SCA projects, including mobilization/de-mobilization

**MASTER AGREEMENT FOR GEOTECHNICAL SERVICES  
NINYO & MOORE GEOTECHNICAL & ENVIRONMENTAL SCIENCES CONSULTANTS**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of June, 2025, but effective July 1, 2025, by and between the Carlsbad Municipal Water District, a Public Agency organized under the Municipal Water Act of 1911, and a Subsidiary District of the City of Carlsbad, California ("CMWD"), and Ninyo & Moore Geotechnical & Environmental Sciences Consultants, a California corporation ("Contractor").

**RECITALS**

- A. CMWD requires the professional services of a consultant that is experienced in geotechnical services.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to geotechnical.
- D. Contractor has submitted a proposal to CMWD responsive to Request for Qualifications RFQ25-3437CA and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, CMWD and Contractor agree as follows:

**1. SCOPE OF WORK**

CMWD retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A", which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective for a period of three (3) years from July 1, 2025, through June 30, 2028. The Executive Manager may amend the Agreement to extend it for two (2) additional one (1) year(s) periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, CMWD needs, and appropriation of funds by the CMWD Board of Directors. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by CMWD and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the Executive Manager or General

Manager as authorized by the Executive Manager. The Executive Manager or General Manager will give allowance for documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight on the part of Contractor, or delays caused by CMWD inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed five hundred thousand dollars (\$500,000). Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, CMWD shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for CMWD, the Executive Manager or General Manager, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

If CMWD elects to extend the term of the Master Services Agreement, adjustments to the rate schedule may be permitted. Upon receipt of a written request from the Contractor, CMWD may consider approving a rate schedule increase. Rate schedule increases will be considered for each anniversary of the Agreement effective date after the initial three-year term. An increase to the rate schedule will be calculated based on the proceeding 12-month percentage change in the Consumer Price Index, San Diego Area, for All Urban Customers (CPI-U), as reported by the Bureau of Labor Statistics or 5.0%, whichever is lower. If the CPI-U is a negative number, then the rate schedule will not be adjusted for that year. The Contractor must submit a request and justification to increase the rate schedule at least sixty days prior to the anniversary of the effective date, assuming CMWD opt to extend the Master Services Agreement. The justification accompanying the written request should detail the rationale for the requested adjustment, and the requested adjustment amount, supported by relevant documentation (e.g., CPI-U or 5.0%, whichever is less). Approval of rate schedule increase by CMWD must be documented in an amendment to the Agreement.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California



Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize the Owner's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. The Contractor is required to create a free web-based Procore user account(s) and utilize web-based training / tutorials (as needed) to become familiar with the system. Unless the Engineer approves otherwise, the Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. The Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of the Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that the Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, RFIs, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

## **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of CMWD. Contractor will be under the control of CMWD only as to the result to be accomplished, but will consult with CMWD as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of CMWD for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. CMWD will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. CMWD will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify CMWD and the City of Carlsbad within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which CMWD may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At CMWD's election, CMWD may deduct the indemnification amount from any balance owing to Contractor.

**9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

**10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of CMWD. If Contractor subcontracts any of the Services, Contractor will be fully responsible to CMWD for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and CMWD. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by CMWD.

**11. OTHER CONTRACTORS**

CMWD reserves the right to employ other Contractors in connection with the Services.

**12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by CMWD), indemnify and hold harmless CMWD and the City of Carlsbad and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense CMWD or the City of Carlsbad incurs or makes to or on behalf of an injured employee under CMWD's self-administered workers' compensation is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

**13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and

authorized to do business in the State of California. The insurance carrier is required to have a current Best's Key Rating of not less than "A-:VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

13.1 Coverages and Limits. Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to CMWD's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 CMWD will be named as an additional insured on General Liability which shall provide primary coverage to CMWD.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to CMWD sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to CMWD’s execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to CMWD.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then CMWD will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by CMWD to obtain or maintain insurance and CMWD may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. CMWD reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

14. **BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

15. **ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of CMWD during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

16. **OWNERSHIP OF DOCUMENTS**

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of CMWD. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to CMWD. Contractor will have the right to make one (1) copy of the work product for Contractor’s records.

17. **COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in CMWD and Contractor relinquishes all claims to the copyrights in favor of CMWD.

18. **NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of CMWD and on behalf of Contractor under this Agreement.

For CMWD:

Name	<u>Eleida Felix Yackel</u>
Title	<u>Senior Contract Administrator</u>
Dept	<u>Public Works/ Contract Admin</u>
	<u>CARLSBAD MUNICIPAL WATER DISTRICT</u>
Address	<u>1635 Faraday Ave.</u>

For Contractor:

Name	<u>Avram Ninyo</u>
Title	<u>President</u>
Address	<u>5710 Ruffin Road</u>
	<u>San Diego, CA 92123</u>
Phone	<u>858/576-1000</u>

Phone Carlsbad, CA 92008  
442-339-2767

Email aninyo@ninyoandmoore.com

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

**19. GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or CMWD will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, CMWD may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If CMWD decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, CMWD may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by CMWD and all work in progress to CMWD address contained in this Agreement. CMWD will make a

determination of fact based upon the work product delivered to CMWD and of the percentage of work that Contractor has performed which is usable and of worth to CMWD in having the Agreement completed. Based upon that finding CMWD will determine the final payment of the Agreement.

CMWD may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to CMWD. In the event of termination of this Agreement by either party and upon request of CMWD, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to CMWD. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. CMWD will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, CMWD will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any agreement claim submitted to CMWD must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to CMWD, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If CMWD seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon CMWD and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of CMWD, which shall not be

unreasonably withheld.

**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the CMWD and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract, and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}

CONTRACTOR  
NINYO & MOORE GEOTECHNICAL &  
ENVIRONMENTAL SCIENCES  
CONSULTANTS, a California corporation

CARLSBAD MUNICIPAL WATER DISTRICT, a  
Public Agency organized under the  
Municipal Water Act of 1911, and a  
Subsidiary District of the City of Carlsbad

By: Avram Ninyo, PE GE / President  
(sign here)

By: \_\_\_\_\_  
Keith Blackburn, President

Avram Ninyo, President and CFO  
(print name/title)

ATTEST:  
SHERRY FREISINGER, Secretary

By: \_\_\_\_\_  
(sign here)

By: \_\_\_\_\_  
Faviola Medina,  
Director of Constituent & Clerk Services

\_\_\_\_\_  
(print name/title)

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

**Group A**  
Chairman,  
President, **or**  
Vice-President

**Group B**  
Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, General Counsel

BY: Cindie K. McMahon



**EXHIBIT A**

**SCOPE OF SERVICES AND FEES**

Perform a variety of tasks related to geotechnical services, as outlined in the individual Project Task Descriptions and Fee Allotments (PTD&FA), including but not limited to the following:

- A. Geotechnical Investigations.
- B. Hazardous Material Evaluations.
- C. Materials Testing.
- D. Groundwater Monitoring Well Installations.

Requests for work not listed above must be contracted under separate agreement.

**MASTER AGREEMENT RATE SCHEDULE**~~Prices valid through December 1, 2027~~

<b>STAFF</b>			
	<b>Name</b>	<b>Title</b>	<b>Hourly Rate</b>
1	Jeffrey T. Kent	Principal Engineer	\$195.00
2	Gregory Farrand	Principal Geologist	\$195.00
3	Kenneth Mansir, Jr.	Principal Engineer	\$195.00
4	Ronald Halbert	Principal Engineer	\$195.00
5	William Morrison	Principal Engineer	\$195.00
6	Robert Wheeler	Principal Geologist	\$195.00
7	Stephen Waide	Principal Industrial Hygienist	\$195.00
8	Travis Meier	Principal Environmental Scientist	\$195.00
9	Kai Vedenoja	Senior Engineer	\$190.00
10	Nathan Diem	Senior Geologist	\$190.00
11	Nicolas Carpenter	Senior Environmental Scientist/ Certified Asbestos/Lead Technician	\$190.00
12	Brian Ford	Certified Asbestos/Lead Technician	\$185.00
13	Lucas Waide	Certified Asbestos/Lead Technician	\$185.00
14	Gabriel Smith	Senior Project Engineer	\$185.00
15	Christy M. Kuhns	Senior Project Engineer	\$185.00
16	Nissa Morton	Senior Project Geologist	\$185.00
17	Christina Tretinjak	Senior Project Geologist	\$185.00
18	Zachary Hasten	Senior Project Geologist	\$185.00
19	Robert Sargent	Project Engineer	\$175.00
20	Miguel Angel Chin Gallegos	Project Engineer	\$175.00
21	Stephen Quimpo	Project Geologist	\$175.00
22	Christopher Frank	Senior Staff Engineer	\$150.00
23	Jorge Contreras	Senior Staff Geologist	\$150.00
24	Keith Kastama	Senior Staff Geologist	\$150.00
25	Cameron Higman	Staff Geologist	\$145.00
26	Jakob Montgomery	Staff Geologist	\$145.00
27	Ivan Guajardo	Special Inspector (Prevailing Wage/Non-Prevailing Rate)	\$139.00/\$109.00
28	Duc Nguyen	Special Inspector (Prevailing Wage/Non-Prevailing Rate)	\$139.00/\$109.00
29	Justin Hilterman	Special Inspector (Prevailing Wage/Non-Prevailing Rate)	\$139.00/\$109.00
30	Shawn Macias	Special Inspector (Prevailing Wage/Non-Prevailing Rate)	\$139.00/\$109.00
31	Ebenezer Medina	Special Inspector (Prevailing Wage/Non-Prevailing Rate)	\$139.00/\$109.00
32	David Hopkins	Special Inspector/Senior Field Technician (Prevailing Wage/Non-Prevailing Rate)	\$139.00/\$109.00
33	Alex Gutierrez	Special Inspector/Senior Field Technician (Prevailing Wage/Non-Prevailing Rate)	\$139.00/\$109.00

**MASTER AGREEMENT RATE SCHEDULE**~~Prices valid through December 1, 2027~~

<b>STAFF</b>			
	<b>Name</b>	<b>Title</b>	<b>Hourly Rate</b>
34	Julio Guzman	Special Inspector/Senior Field Technician (Prevailing Wage/Non-Prevailing Rate)	\$139.00/\$109.00
35	Daniel Lindsay	Special Inspector/Senior Field Technician (Prevailing Wage/Non-Prevailing Rate)	\$139.00/\$109.00
36	Everardo Rico	Special Inspector/Senior Field Technician (Prevailing Wage/Non-Prevailing Rate)	\$139.00/\$109.00
37	Micheil Mikhail	Special Inspector/Senior Field Technician (Prevailing Wage/Non-Prevailing Rate)	\$139.00/\$109.00
38	Timothy Timmerman	Special Inspector/Senior Field Technician (Prevailing Wage/Non-Prevailing Rate)	\$139.00/\$109.00
39	Kevin Tran	Special Inspector/Senior Field Technician (Prevailing Wage/Non-Prevailing Rate)	\$139.00/\$109.00
40	Richard Agcaoli	Senior Field Technician (Prevailing Wage/Non-Prevailing Rate)	\$138.00/\$108.00
41	Matt Ecker	Senior Field Technician (Prevailing Wage/Non-Prevailing Rate)	\$138.00/\$108.00
42	Aaron Frederick	Senior Field Technician (Prevailing Wage/Non-Prevailing Rate)	\$138.00/\$108.00
43	Alejandro Jimenez	Senior Field Technician (Prevailing Wage/Non-Prevailing Rate)	\$138.00/\$108.00
44	Mark MacCarthy	Senior Field Technician (Prevailing Wage/Non-Prevailing Rate)	\$138.00/\$108.00
45	Mario Palacios	Senior Field Technician (Prevailing Wage/Non-Prevailing Rate)	\$138.00/\$108.00
46	Thomas Whelan	Senior Field Technician (Prevailing Wage/Non-Prevailing Rate)	\$138.00/\$108.00
47	Joseph Tasto	Senior Field Technician (Prevailing Wage/Non-Prevailing Rate)	\$138.00/\$108.00
48	Eric Van Ginder	Senior Field Technician (Prevailing Wage/Non-Prevailing Rate)	\$138.00/\$108.00
49	Derek Horry	Field Technician (Prevailing Wage/Non-Prevailing Rate)	\$138.00/\$108.00
50	Norman Gutierrez	Field Technician (Prevailing Wage/Non-Prevailing Rate)	\$138.00/\$108.00
51	Jesse Lahman	GIS Analyst	\$125.00
52	Darin Vojtaskovic	Supervisory Technician	\$115.00
53	Alfredo Tapia	Senior Laboratory Technician	\$108.00
54	Tyler Morud	Laboratory Technician	\$103.00
55	Alexis Balane	Technical Illustrator	\$103.00
56	Carlos Govea	Geotechnical/Environmental/ Laboratory Assistant	\$80.00
57	Vanessa Boyer	Geotechnical/Environmental/ Laboratory Assistant	\$80.00
58	Trevor Holombo	Technical Assistant	\$80.00
59	Donna Madrigal	Data Processor	\$75.00
60	Angelique Frederick	Data Processor	\$75.00
61	Michelle Priebe	Data Processor	\$75.00

MASTER AGREEMENT RATE SCHEDULE  
~~Prices valid through December 1, 2027~~

EXPENSES			
	Description	Cost	%Markup
1	Subcontractor and Expense	Expense plus markup	15%
2	See laboratory fees list (page 4)	Per test	-
3	Concrete Coring Equipment (includes technician)	\$190.00/hr	-
4	Anchor Load Test Equipment (includes technician)	\$190.00/hr	-
5	GPR Equipment	\$180.00/hr	-
6	Inclinometer	\$100.00/hr	-
7	Hand Auger Equipment	\$ 80.00/hr	-
8	Rebar Locator (Pachometer)	\$ 25.00/hr	-
9	Vapor Emission Kit	\$ 65.00/kit	-
10	Nuclear Density Gauge	\$ 15.00/hr	-
11	X-Ray Fluorescence	\$ 70.00/hr	-
12	PID/FID	\$ 25.00/hr	-
13	Air Sampling Pump	\$ 10.00/hr	-
14	Field Vehicle	\$ 15.00/hr	-
15	Expert Witness Testimony	\$ 450.00/hr	-

For field and laboratory technicians and special inspectors, regular hourly rates are charged during normal weekday construction hours. Overtime rates at 1.5 times the regular rates will be charged for work performed outside normal construction hours and all day on Saturdays. Rates at twice the regular rates will be charged for all work in excess of 12 hours in one day or on Sundays and holidays. Lead time for any requested service is 24 hours. Field Technician rates are based on a 4-hour minimum. Special inspection rates are based on a 4-hour minimum for the first 4 hours and an 8-hour minimum for hours exceeding 4 hours. Field personnel are charged portal to portal.

Invoices will be submitted monthly and are due upon receipt. A service charge of 1.0 percent per month may be charged on accounts not paid within 30 days.

**MASTER AGREEMENT RATE SCHEDULE**~~Prices valid through December 1, 2027~~**Schedule of Fees for Laboratory Testing****SOILS**

Atterberg Limits, D 4318, CT 204	\$ 170
California Bearing Ratio (CBR), D 1883	\$ 550
Chloride and Sulfate Content, CT 417 & CT 422	\$ 175
Consolidation, D 2435, CT 219	\$ 300
Consolidation, Hydro-Collapse only, D 2435	\$ 150
Consolidation – Time Rate, D 2435, CT 219	\$ 200
Direct Shear – Remolded, D 3080	\$ 350
Direct Shear – Undisturbed, D 3080	\$ 300
Durability Index, CT 229	\$ 175
Expansion Index, D 4829, IBC 18-3	\$ 190
Expansion Potential (Method A), D 4546	\$ 170
Geofabric Tensile and Elongation Test, D 4632	\$ 200
Hydraulic Conductivity, D 5084	\$ 350
Hydrometer Analysis, D 6913, CT 203	\$ 220
Moisture, Ash, & Organic Matter of Peat/Organic Soils	\$ 120
Moisture Only, D 2216, CT 226	\$ 35
Moisture and Density, D 2937	\$ 45
Permeability, CH, D 2434, CT 220	\$ 300
pH and Resistivity, CT 643	\$ 175
Proctor Density D1557, D 698, CT 216, AASHTO T-180	\$ 220
Proctor Density with Rock Correction D 1557	\$ 340
R-value, D 2844, CT 301	\$ 375
Sand Equivalent, D 2419, CT 217	\$ 125
Sieve Analysis, D 6913, CT 202	\$ 145
Sieve Analysis, 200 Wash, D 1140, CT 202	\$ 100
Specific Gravity, D 854	\$ 125
Thermal Resistivity (ASTM 5334, IEEE 442)	\$ 925
Triaxial Shear, C.D., D 4767, T 297	\$ 550
Triaxial Shear, C.U., w/pore pressure, D 4767, T 2297 per pt	\$ 450
Triaxial Shear, C.U., w/o pore pressure, D 4767, T 2297 per pt	\$ 350
Triaxial Shear, U.U., D 2850	\$ 250
Unconfined Compression, D 2166, T 208	\$ 180

**MASONRY**

Brick Absorption, 24-hour submersion, 5-hr boiling, 7-day, C 67	\$ 70
Brick Compression Test, C 67	\$ 55
Brick Efflorescence, C 67	\$ 55
Brick Modulus of Rupture, C 67	\$ 50
Brick Moisture as received, C 67	\$ 45
Brick Saturation Coefficient, C 67	\$ 60
Concrete Block Compression Test, 8x8x16, C 140	\$ 70
Concrete Block Conformance Package, C 90	\$ 500
Concrete Block Linear Shrinkage, C 426	\$ 200
Concrete Block Unit Weight and Absorption, C 140	\$ 70
Cores, Compression or Shear Bond, CA Code	\$ 70
Masonry Grout, 3x3x6 prism compression, C 39	\$ 45
Masonry Mortar, 2x2 cube compression, C 109	\$ 35
Masonry Prism, half size, compression, C 1019	\$ 120
Masonry Prism, Full size, compression, C 1019	\$ 200

**REINFORCING AND STRUCTURAL STEEL**

Chemical Analysis, A 36, A 615	\$ 135
Fireproofing Density Test, UBC 7-6	\$ 90
Hardness Test, Rockwell, A 370	\$ 80
High Strength Bolt, Nut & Washer Conformance, per assembly, A 325	\$ 150
Mechanically Spliced Reinforcing Tensile Test, ACI	\$ 175
Pre-Stress Strand (7 wire), A 416	\$ 170
Reinforcing Tensile or Bend up to No. 11, A 615 & A 706	\$ 75
Structural Steel Tensile Test: Up to 200,000 lbs., A 370	\$ 90
Welded Reinforcing Tensile Test: Up to No. 11 bars, ACI	\$ 80

**CONCRETE**

Compression Tests, 6x12 Cylinder, C 39	\$ 35
Concrete Mix Design Review, Job Spec	\$ 300
Concrete Mix Design, per Trial Batch, 6 cylinder, ACI	\$ 850
Concrete Cores, Compression (excludes sampling), C 42	\$ 120
Drying Shrinkage, C 157	\$ 400
Flexural Test, C 78	\$ 85
Flexural Test, C 293	\$ 85
Flexural Test, CT 523	\$ 95
Gunite/Shotcrete, Panels, 3 cut cores per panel and test, ACI	\$ 275
Lightweight Concrete Fill, Compression, C 495	\$ 80
Petrographic Analysis, C 856	\$ 2,000
Restrained Expansion of Shrinkage Compensation	\$ 450
Splitting Tensile Strength, C 496	\$ 100
3x6 Grout, (CLSM), C 39	\$ 55
2x2x2 Non-Shrink Grout, C 109	\$ 55

**ASPHALT**

Air Voids, T 269	\$ 85
Asphalt Mix Design, Caltrans (incl. Aggregate Quality)	\$ 4,500
Asphalt Mix Design Review, Job Spec	\$ 180
Dust Proportioning, CT LP-4	\$ 85
Extraction, % Asphalt, including Gradation, D 2172, CT 382	\$ 250
Extraction, % Asphalt without Gradation, D 2172, CT 382	\$ 150
Film Stripping, CT 302	\$ 120
Hveem Stability and Unit Weight D 1560, T 246, CT 366	\$ 225
Marshall Stability, Flow and Unit Weight, T 245	\$ 240
Maximum Theoretical Unit Weight, D 2041, CT 309	\$ 150
Moisture Content, CT 370	\$ 95
Moisture Susceptibility and Tensile Stress Ratio, T 238, CT 371	\$ 1,000
Slurry Wet Track Abrasion, D 3910	\$ 150
Superpave, Asphalt Mix Verification (incl. Aggregate Quality)	\$ 4,900
Superpave, Gyration Unit Wt., T 312	\$ 100
Superpave, Hamburg Wheel, 20,000 passes, T 324	\$ 1,000
Unit Weight sample or core, D 2726, CT 308	\$ 100
Voids in Mineral Aggregate, (VMA) CT LP-2	\$ 90
Voids filled with Asphalt, (VFA) CT LP-3	\$ 90
Wax Density, D 1188	\$ 140

**AGGREGATES**

Clay Lumps and Friable Particles, C 142	\$ 180
Cleanness Value, CT 227	\$ 180
Crushed Particles, CT 205	\$ 175
Durability, Coarse or Fine, CT 229	\$ 205
Fine Aggregate Angularity, ASTM C 1252, T 304, CT 234	\$ 180
Flat and Elongated Particle, D 4791	\$ 220
Lightweight Particles, C 123	\$ 180
Los Angeles Abrasion, C 131 or C 535	\$ 200
Material Finer than No. 200 Sieve by Washing, C 117	\$ 90
Organic Impurities, C 40	\$ 90
Potential Alkali Reactivity, Mortar Bar Method, Coarse, C 1260	\$ 1,250
Potential Alkali Reactivity, Mortar Bar Method, Fine, C 1260	\$ 950
Potential Reactivity of Aggregate (Chemical Method), C 289	\$ 475
Sand Equivalent, T 176, CT 217	\$ 125
Sieve Analysis, Coarse Aggregate, T 27, C 136	\$ 120
Sieve Analysis, Fine Aggregate (including wash), T 27, C 136	\$ 145
Sodium Sulfate Soundness, C 88	\$ 450
Specific Gravity and Absorption, Coarse, C 127, CT 206	\$ 115
Specific Gravity and Absorption, Fine, C 128, CT 207	\$ 175

**ROOFING**

Roofing Tile Absorption, (set of 5), C 67	\$ 250
Roofing Tile Strength Test, (set of 5), C 67	\$ 250

Special preparation of standard test specimens will be charged at the technician's hourly rate.  
Ninyo & Moore is accredited to perform the AASHTO equivalent of many ASTM test procedures.

**MASTER AGREEMENT FOR AS-NEEDED HORIZONTAL CONSTRUCTION MANAGEMENT AND INSPECTION  
ARCADIS U.S., INC.**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2025, but effective August 18, 2025, by and between the Carlsbad Municipal Water District, a Public Agency organized under the Municipal Water Act of 1911, and a Subsidiary District of the City of Carlsbad, California ("CMWD"), and Arcadis U.S., Inc., a Delaware corporation ("Contractor").

**RECITALS**

- A. CMWD requires the professional services of a consultant that is experienced in construction management and inspection for horizontal projects.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to as-needed horizontal construction management and inspection.
- D. Contractor has submitted a proposal to CMWD responsive to Request for Qualifications RFQ25-3671CMI and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, CMWD and Contractor agree as follows:

**1. SCOPE OF WORK**

CMWD retains Contractor to perform, and Contractor agrees to render those services ("Services") that are defined in attached Exhibit "A," which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California Area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective from the date first above written to Aug. 17, 2028. The Executive Manager may amend the Agreement to extend it for two (2) additional one (1) year periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, CMWD needs, and appropriation of funds by the CMWD Board of Directors. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by CMWD and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the Executive Manager or General Manager as authorized by the Executive Manager. The Executive Manager or General Manager will give

allowance for documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight on the part of Contractor, or delays caused by CMWD inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed eight hundred thousand dollars (\$800,000) per Agreement year. If the City elects to extend the Agreement pursuant to Section 3, the costs of services may increase by a maximum of 2% per Agreement year, if agreed to by both parties. Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, CMWD shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for CMWD, the Executive Manager or General Manager, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor or subconsultant performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code section 1725.5. California Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work, unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procure Project Management and Collaboration System. This project may utilize CMWD's Procure ([www.procure.com](http://www.procure.com)) online project management and document control platform. The intent of utilizing Procure is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and



decreasing turnaround times. Contractor is required to create a free web-based Procore user account(s) and utilize web-based training/tutorials (as needed) to become familiar with the system. Unless the City of Carlsbad City Engineer approves otherwise, Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, requests for information, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve the contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

#### **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of CMWD. Contractor will be under the control of CMWD only as to the result to be accomplished, but will consult with CMWD as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of CMWD for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. CMWD will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. CMWD will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify CMWD and the City of Carlsbad within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which CMWD may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At CMWD's election, CMWD may deduct the indemnification amount from any balance owing to Contractor.

#### **9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated, and the results will be considered for future task orders or agreements.

#### **10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of CMWD. If Contractor subcontracts any of the Services, Contractor will be fully responsible to CMWD for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor.



Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and CMWD. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by CMWD.

#### **11. OTHER CONTRACTORS**

CMWD reserves the right to employ other Contractors in connection with the Services.

#### **12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by CMWD), indemnify and hold harmless CMWD and the City of Carlsbad and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorney's fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense CMWD or the City of Carlsbad incurs or makes to or on behalf of an injured employee under CMWD's self-administered workers' compensation is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

#### **13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current Best's Key Rating of not less than "A-VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

**13.1 Coverages and Limits.** Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will

obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to CMWD's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 CMWD will be named as an additional insured on General Liability which shall provide primary coverage to CMWD.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to CMWD sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to CMWD's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to CMWD.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then CMWD will have the option to declare Contractor in breach or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by CMWD to obtain or maintain insurance and CMWD may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. CMWD reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

14. **BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

15. **ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of CMWD during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

16. **OWNERSHIP OF DOCUMENTS**

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of CMWD. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to CMWD. Contractor will have the right to make one (1) copy of the work product for Contractor’s records.

17. **COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in CMWD and Contractor relinquishes all claims to the copyrights in favor of CMWD.

18. **NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of CMWD and on behalf of Contractor under this Agreement.

For CMWD:

Name	Jennifer Chapman
Title	Senior Contract Administrator
Dept	Public Works/CM&I
	<u>CARLSBAD MUNICIPAL WATER DISTRICT</u>
Address	1635 Faraday Ave.
	Carlsbad, CA 92008
Phone	442-339-2780

For Contractor:

Name	Lauren Jentzen
Title	PE - Construction Principal (Project Manager)
Address	530 B Street, Suite 1000
	San Diego, CA 92101
Phone	858-414-2449
Email	lauren.jentzen@arcadis.com

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

19. **GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and

regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services, the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or CMWD will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, CMWD may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If CMWD decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, CMWD may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by CMWD and all work in progress to CMWD address contained in this Agreement. CMWD will make a determination of fact based upon the work product delivered to CMWD and of the percentage of work that Contractor has performed which is usable and of worth to CMWD in having the Agreement completed. Based upon that finding CMWD will determine the final payment of the Agreement.

CMWD may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to CMWD. In the event of termination of this Agreement by either party and upon request of CMWD, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to CMWD. Contractor will be paid for work performed to the termination date; however, the total will not exceed

the lump sum fee payable under this Agreement. CMWD will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, CMWD will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any agreement claim submitted to CMWD must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to CMWD, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If CMWD seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTION AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon CMWD and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of CMWD, which shall not be unreasonably withheld.

**28. THIRD PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the CMWD and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and

understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}

PSA25-3824CMI

CONTRACTOR  
ARCADIS U.S., INC., a Delaware corporation

CARLSBAD MUNICIPAL WATER DISTRICT, a  
Public Agency organized under the Municipal  
Water Act of 1911, and a Subsidiary District of  
the City of Carlsbad

By:   
(sign here)

By: \_\_\_\_\_  
KEITH BLACKBURN, President

John McCarthy, President  
(print name/title)

ATTEST:

By:   
(sign here)

SHERRY FREISINGER, Secretary

Robyn Miller, Secretary  
(print name/title)

By: \_\_\_\_\_  
Director of Constituent & Clerk Services

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

Group A  
Chairman,  
President, **or**  
Vice-President

Group B  
Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, General Counsel

By: 

**EXHIBIT A**

**SCOPE OF SERVICES AND FEE**

Contractor shall perform as-needed horizontal construction management and inspection services in accordance with the city's Request for Qualifications (RFQ25-3671CMI) dated March 5, 2025. The agreed upon billing rates for services outlined in said proposal are attached hereto.

All hours billed will be paid at a straight time rate; no overtime billing allowed.

Hours billed on a non-contractor workday must receive prior authorization by city staff.

Rates are inclusive of equipment, vehicle, mileage, laptop computers with wireless connections, cell phone, insurance, travel time, etc.





## Fee Schedule

Prices valid through initial Term of Agreement. If the City extends the Agreement, compensation may increase by a maximum of 2%, upon agreement by the City or CMWD.

Arcadis Staff					
	Name	Title	Hourly Rate	OT Rate	DT Rate
1.	Lauren Jentzen	Construction Manager / Resident Engineer	\$283.00	NA	NA
2.	Arthur Serata	Construction Manager / Resident Engineer	\$283.00	NA	NA
3.	Nariman Khomamizadeh	Construction Manager / Resident Engineer	\$220.00	NA	NA
4.	Craig Hutchins	Construction Manager / Resident Engineer	\$230.00	NA	NA
5.	Yanal Bushnaq	Construction Manager / Resident Engineer	\$195.00	NA	NA
6.	Allen Day	Construction Inspector*	\$220.00	\$260.00	\$300.00
7.	Sarah Thomson	Construction Inspector*	\$238.00	\$280.00	\$323.00
8.	Conrad Taylor	Construction Inspector*	\$220.00	\$260.00	\$300.00
9.	Chris Wright	Construction Inspector*	\$238.00	\$280.00	\$323.00
10.	Erik Anderson	Construction Inspector*	\$230.00	\$271.00	\$314.00
11.	Kiah Tretter	Admin/Document Control Specialist	\$115.00	NA	NA
12.	Rhonda Barkey	Admin/Document Control Specialist	\$132.00	NA	NA

**\*Construction Inspector rates based off DIR Prevailing Wage SD-23-63-3-2024-2D, Group 2**

Subconsultants					
	Name / Firm	Title	Hourly Rate	OT Rate	DT Rate
1.	Oscar Mendoza (KCS)	Construction Manager / Resident Engineer	\$272.00	NA	NA
2.	Jeff Edwards (KCS)	Construction Inspector*	\$225.00	\$274.25	\$322.87
3.	Jay Losofsky (KCS)	Start-up support	\$233.00	NA	NA
4.	Teresa Gonzalez-White (GWCS)	Labor Compliance	\$120.00	NA	NA
5.	Gerald Montgomery	Principal / QSD	\$160.00	NA	NA
6.	Steven Branson (SQ)	Project Manager / QSD	\$150.00	NA	NA
7.	Julietta Viduya (SQ)	QSP	\$125.00	NA	NA
8.	Stan Olmos (SQ)	QSP	\$125.00	NA	NA
9.	Thomas Klein (RCS)	E & IC, Start-up Support	\$230.00	\$345.00	\$460.00

**MASTER AGREEMENT FOR AS-NEEDED HORIZONTAL CONSTRUCTION MANAGEMENT AND INSPECTION  
CPM PARTNERS, INC.**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2025, but effective August 18, 2025, by and between the Carlsbad Municipal Water District, a Public Agency organized under the Municipal Water Act of 1911, and a Subsidiary District of the City of Carlsbad, California ("CMWD"), and CPM Partners, Inc., a California corporation ("Contractor").

**RECITALS**

- A. CMWD requires the professional services of a consultant that is experienced in construction management and inspection for horizontal projects.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to as-needed horizontal construction management and inspection.
- D. Contractor has submitted a proposal to CMWD responsive to Request for Qualifications RFQ25-3671CMI and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, CMWD and Contractor agree as follows:

**1. SCOPE OF WORK**

CMWD retains Contractor to perform, and Contractor agrees to render those services ("Services") that are defined in attached Exhibit "A," which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California Area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective from the date first above written to Aug. 17, 2028. The Executive Manager may amend the Agreement to extend it for two (2) additional one (1) year periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, CMWD needs, and appropriation of funds by the CMWD Board of Directors. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by CMWD and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the Executive Manager or General

Manager as authorized by the Executive Manager. The Executive Manager or General Manager will give allowance for documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight on the part of Contractor, or delays caused by CMWD inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed eight hundred thousand dollars (\$800,000) per Agreement year. If the City elects to extend the Agreement pursuant to Section 3, the costs of services may increase by a maximum of 2% per Agreement year, if agreed to by both parties. Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, CMWD shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for CMWD, the Executive Manager or General Manager, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor or subconsultant performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code section 1725.5. California Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work, unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize CMWD's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team

dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. Contractor is required to create a free web-based Procore user account(s) and utilize web-based training/tutorials (as needed) to become familiar with the system. Unless the City of Carlsbad City Engineer approves otherwise, Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, requests for information, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve the contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

#### **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of CMWD. Contractor will be under the control of CMWD only as to the result to be accomplished but will consult with CMWD as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of CMWD for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. CMWD will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. CMWD will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify CMWD and the City of Carlsbad within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which CMWD may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At CMWD's election, CMWD may deduct the indemnification amount from any balance owing to Contractor.

#### **9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

#### **10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of CMWD. If Contractor subcontracts any of the Services, Contractor will be fully responsible to CMWD for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the

subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and CMWD. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by CMWD.

#### **11. OTHER CONTRACTORS**

CMWD reserves the right to employ other Contractors in connection with the Services.

#### **12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by CMWD), indemnify and hold harmless CMWD and the City of Carlsbad and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorney's fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense CMWD or the City of Carlsbad incurs or makes to or on behalf of an injured employee under CMWD's self-administered workers' compensation is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

#### **13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current Best's Key Rating of not less than "A-:VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

**13.1 Coverages and Limits.** Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect

Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to CMWD's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 CMWD will be named as an additional insured on General Liability which shall provide primary coverage to CMWD.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to CMWD sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to CMWD's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to CMWD.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then CMWD will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by CMWD to obtain or maintain insurance and CMWD may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. CMWD reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

14. BUSINESS LICENSE

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

15. ACCOUNTING RECORDS

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of CMWD during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

16. OWNERSHIP OF DOCUMENTS

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of CMWD. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to CMWD. Contractor will have the right to make one (1) copy of the work product for Contractor’s records.

17. COPYRIGHTS

Contractor agrees that all copyrights that arise from the services will be vested in CMWD and Contractor relinquishes all claims to the copyrights in favor of CMWD.

18. NOTICES

The name of the persons who are authorized to give written notice or to receive written notice on behalf of CMWD and on behalf of Contractor under this Agreement.

For CMWD:

Name	Jennifer Chapman
Title	Senior Contract Administrator
Dept	Public Works/CM&I
<u>CARLSBAD MUNICIPAL WATER DISTRICT</u>	
Address	1635 Faraday Ave.
	Carlsbad, CA 92008
Phone	442-339-2780

For Contractor:

Name	Alex Janecek
Title	Vice President
Address	523 Encinitas Blvd., #200
	Encinitas, CA 92024
Phone	310-989-3104
Email	<a href="mailto:alex@cpm-partners.com">alex@cpm-partners.com</a>

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

19. GENERAL COMPLIANCE WITH LAWS

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and



regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or CMWD will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

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the lump sum fee payable under this Agreement. CMWD will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, CMWD will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any agreement claim submitted to CMWD must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to CMWD, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If CMWD seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTION AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon CMWD and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of CMWD, which shall not be unreasonably withheld.

**28. THIRD PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the CMWD and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and

understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}

CONTRACTOR  
CPM PARTNERS, INC., a California corporation

CARLSBAD MUNICIPAL WATER DISTRICT, a  
Public Agency organized under the Municipal  
Water Act of 1911, and a Subsidiary District of  
the City of Carlsbad

By:

Maribel Janecek

(sign here)

By:

KEITH BLACKBURN, President

Maribel Janecek,  
President and Chief Financial Officer

(print name/title)

ATTEST:

SHERRY FREISINGER, Secretary

By:

(sign here)

By:

Director of Constituent & Clerk Services

(print name/title)

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

Group A  
Chairman,  
President, **or**  
Vice-President

Group B  
Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, General Counsel

By:

Cindie K. McMahon

EXHIBIT A

SCOPE OF SERVICES AND FEE

Contractor shall perform as-needed horizontal construction management and inspection services in accordance with the city's Request for Qualifications (RFQ25-3671CMI) dated March 5, 2025. The agreed upon billing rates for services outlined in said proposal are attached hereto.

All hours billed will be paid at a straight time rate; no overtime billing allowed.

Hours billed on a non-contractor workday must receive prior authorization by city staff.

Rates are inclusive of equipment, vehicle, mileage, laptop computers with wireless connections, cell phone, insurance, travel time, etc.

## Exhibit B - Rate Schedule

## CPM Partners

City of Carlsbad, RFQ25-3671CMI

Prices valid through initial Term of Agreement

## CPM Partners, Inc

	<u>NAME</u>	<u>TITLE</u>	<u>HOURLY RATE</u>
1	Alex Janecek, PE, CCM, QSD	RE, Sr. Scheduler, Sr. Claims	\$240.00
2	Gordon Costa, PE	Lead Scheduler, Claims	\$264.00
3	Ahmad Rafiq, PE	RE, Inspector	\$233.00
4	Pedro Aguilar	ARE, Inspector	\$224.00
5	Rafael Perez	OE, Inspector	\$224.00
6	Agustin Salinas, PE	OE, Inspector	\$165.00
7	Wendy Casdorff	Project Controls, Admin	\$133.00
8	Ylonda Miles	Admin / Document Control	\$120.00
9	Ryan Priestman, PMP	Scheduler, Claims Support	\$181.00
10	Melissa Leyendecker	OE, Admin	\$134.00
11	Erick Strickland	Constructability Reviewer	\$212.00
12			

## Sub-Consultants

	<u>NAME/FIRM</u>	<u>TITLE</u>	<u>HOURLY RATE</u>
1	Gannett Fleming, Inc.		Attached
2	Kleinfelder Construction Svcs		Attached
3	La Salle Solutions		Attached
4	New City Consulting		Attached
5	NOVA Services		Attached

## Expenses

	<u>DESCRIPTION</u>	<u>COST</u>	<u>% MARKUP</u>
1	n/a		
2			
3			
4			
5			

**Exhibit B - Rate Schedule****Gannett Fleming**

City of Carlsbad, RFQ25-3671CMI

Prices valid through initial Term of Agreement

**Gannett Fleming Revision 01**

	<u>NAME</u>	<u>TITLE</u>	<u>HOURLY RATE</u>
1	David Toschak (GAN)	Resident Engineer	\$216.62
2	David Cooper (GAN)	Resident Engineer	\$281.86
3	*Mike Broadwater (GAN)	SWPPP Inspector	\$232.95
4	*John Tonarely (GAN)	Inspector	\$232.95
5	*David Shepherd (GAN)	Inspector	\$199.94
6	Rhodie Lumanog (GAN)	Labor Compliance	\$145.26
7	Jim Gallego (GAN)	Scheduler	\$240.00
9			
10			
11			
12			

**Sub-Consultants**

	<u>NAME/FIRM</u>	<u>TITLE</u>	<u>HOURLY RATE</u>
1			
2			
3			
4			
5			

**Expenses**

	<u>DESCRIPTION</u>	<u>COST</u>	<u>% MARKUP</u>
1	Vehicle	\$1,242.62	0%
2			
3			
4			
5			

\* Denotes employees/classifications that are subject to CA prevailing wage. Rates above are day-shift straight-time rates.

Night work and Overtime will be billed at a pro-rata adjusted rate.

**Exhibit B - Rate Schedule****Kleinfelder Construction Services**

City of Carlsbad, RFQ25-3671CMI

Prices valid through initial Term of Agreement

Kleinfelder Construction Services			
	<u>NAME</u>	<u>TITLE</u>	<u>HOURLY RATE</u>
1	Matt Burris, PE, QSD (KCS)	Resident Engineer	\$208.00
2	James Foote (KCS)	ARE/Inspector	\$199.00
3	Claire Fetros (KCS)	ARE/Inspector	\$199.00
4	Brian O'Dell, EIT (KCS)	ARE/Inspector	\$199.00
5	Joe Massie (KCS)	ARE/Inspector	\$199.00
6	Mark Plotnikiewicz, PE, QSD (KCS)	Senior Scheduler	\$260.00
7			

Sub-Consultants			
	<u>NAME/FIRM</u>	<u>TITLE</u>	<u>HOURLY RATE</u>
1			
2			
3			
4			
5			

Expenses			
	<u>DESCRIPTION</u>	<u>COST</u>	<u>% MARKUP</u>
1	Field Vehicle	\$1485/Month	0%
2			
3			
4			
5			

**Exhibit B - Rate Schedule****La Salle Solutions LLC**

City of Carlsbad, RFQ25-3671CMI

Prices valid through initial Term of Agreement

La Salle Solutions			
	<u>NAME</u>	<u>TITLE</u>	<u>HOURLY RATE</u>
1	Enrique Castaneda	CM/RE	\$235.00
2	Samuel Virgil	CM/RE	\$235.00
3	Robin Wollen	Construction Inspector	\$235.00
4			
5			
6			
7			
8			
9			
10			
11			
12			

Sub-Consultants			
	<u>NAME/FIRM</u>	<u>TITLE</u>	<u>HOURLY RATE</u>
1			
2			
3			
4			
5			

Expenses			
	<u>DESCRIPTION</u>	<u>COST</u>	<u>% MARKUP</u>
1	Mileage	per IRS rate	
2			
3			
4			
5			



**Exhibit B - Rate Schedule****New City Consulting**

City of Carlsbad, RFQ25-3671CMI

Prices valid through initial Term of Agreement

New City Consulting			
	<u>NAME</u>	<u>TITLE</u>	<u>HOURLY RATE</u>
1	Patrick Nolan (NEW)	Senior Construction Manager	\$233.00
2	Matthew Horak (NEW)	Construction Manager	\$198.00
3	Mark Brunelle (NEW)	Senior Construction Inspector	\$185.00
4	Lisa Brennan (NEW)	Assistant Construction Manager	\$166.00
5	Jessica Poorman (NEW)	Certified Payroll Compliance	\$130.00
6			
7			
8			
9			
10			
11			
12			

Sub-Consultants			
	<u>NAME/FIRM</u>	<u>TITLE</u>	<u>HOURLY RATE</u>
1			
2			
3			
4			
5			

Expenses			
	<u>DESCRIPTION</u>	<u>COST</u>	<u>% MARKUP</u>
1			
2			
3			
4			
5			

**Exhibit B - Rate Schedule****Nova Services**

City of Carlsbad, RFQ25-3671CMI

Prices valid through initial Term of Agreement

Nova Services			
	<u>NAME</u>	<u>TITLE</u>	<u>HOURLY RATE</u>
1	Tom Canady (Nova)	Principal Engineer	\$240.00
2	Adam Greening (Nova)	Laboratory Manager	\$110.00
3	Simon Sayavanh (Nova)	Special Inspector	\$142.00
4	Morgan Lamb (Nova)	Special Inspector	\$142.00
5	Steve Hamlin (Nova)	Field Technician	\$140.00
6	Brian Steinhauser (Nova)	Field Technician	\$140.00
7			
8			
9			
10			
11			
12			

Sub-Consultants			
	<u>NAME/FIRM</u>	<u>TITLE</u>	<u>HOURLY RATE</u>
1			
2			
3			
4			

Expenses			
	<u>DESCRIPTION</u>	<u>COST</u>	<u>% MARKUP</u>
1	Monthly MetaField Reporting	\$425/month	0%
2	Coring Two Man Crew	\$345/hour	0%
3			
4			
5			

**MASTER AGREEMENT FOR AS-NEEDED HORIZONTAL CONSTRUCTION  
MANAGEMENT AND INSPECTION  
KLEINFELDER CONSTRUCTION SERVICES, INC.**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2025, but effective August 18, 2025, by and between the Carlsbad Municipal Water District, a Public Agency organized under the Municipal Water Act of 1911, and a Subsidiary District of the City of Carlsbad, California ("CMWD"), and Kleinfelder Construction Services, Inc., a California corporation ("Contractor").

**RECITALS**

- A. CMWD requires the professional services of a consultant that is experienced in construction management and inspection for horizontal projects.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to as-needed horizontal construction management and inspection.
- D. Contractor has submitted a proposal to CMWD responsive to Request for Qualifications RFQ25-3671CMI and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, CMWD and Contractor agree as follows:

**1. SCOPE OF WORK**

CMWD retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A," which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California Area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective from the date first above written to Aug. 17, 2028. The Executive Manager may amend the Agreement to extend it for two (2) additional one (1) year periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, CMWD needs, and appropriation of funds by the CMWD Board of Directors. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by CMWD and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the Executive Manager or General

Manager as authorized by the Executive Manager. The Executive Manager or General Manager will give allowance for documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight on the part of Contractor, or delays caused by CMWD inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed eight hundred thousand dollars (\$800,000) per Agreement year. If the City elects to extend the Agreement pursuant to Section 3, the costs of services may increase by a maximum of 2% per Agreement year, if agreed to by both parties. Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, CMWD shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for CMWD, the Executive Manager or General Manager, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor or subconsultant performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code section 1725.5. California Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work, unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize CMWD's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team

dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. Contractor is required to create a free web-based Procore user account(s) and utilize web-based training/tutorials (as needed) to become familiar with the system. Unless the City of Carlsbad City Engineer approves otherwise, Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, requests for information, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve the contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

#### **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of CMWD. Contractor will be under the control of CMWD only as to the result to be accomplished but will consult with CMWD as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of CMWD for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. CMWD will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. CMWD will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify CMWD and the City of Carlsbad within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which CMWD may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At CMWD's election, CMWD may deduct the indemnification amount from any balance owing to Contractor.

#### **9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

#### **10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of CMWD. If Contractor subcontracts any of the Services, Contractor will be fully responsible to CMWD for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the

subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and CMWD. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by CMWD.

#### **11. OTHER CONTRACTORS**

CMWD reserves the right to employ other Contractors in connection with the Services.

#### **12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by CMWD), indemnify and hold harmless CMWD and the City of Carlsbad and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorney's fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense CMWD or the City of Carlsbad incurs or makes to or on behalf of an injured employee under CMWD's self-administered workers' compensation is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

#### **13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current Best's Key Rating of not less than "A-VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

**13.1 Coverages and Limits.** Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect

Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to CMWD's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 CMWD will be named as an additional insured on General Liability which shall provide primary coverage to CMWD.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to CMWD sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to CMWD's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to CMWD.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then CMWD will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by CMWD to obtain or maintain insurance and CMWD may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. CMWD reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

14. **BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

15. **ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of CMWD during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

16. **OWNERSHIP OF DOCUMENTS**

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of CMWD. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to CMWD. Contractor will have the right to make one (1) copy of the work product for Contractor’s records.

17. **COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in CMWD and Contractor relinquishes all claims to the copyrights in favor of CMWD.

18. **NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of CMWD and on behalf of Contractor under this Agreement.

For CMWD:

Name	Jennifer Chapman
Title	Senior Contract Administrator
Dept	Public Works/CM&I
<u>CARLSBAD MUNICIPAL WATER DISTRICT</u>	
Address	1635 Faraday Ave.
	Carlsbad, CA 92008
Phone	442-339-2780

For Contractor:

Name	Mark Plotnikiewicz
Title	PE, QSD
Address	5761 Copley Drive, Suite 100
	San Diego, CA 92111
Phone	858-223-8480
Email	<a href="mailto:mplotnikiewicz@kleinfelder.com">mplotnikiewicz@kleinfelder.com</a>

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

19. **GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and



regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or CMWD will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, CMWD may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If CMWD decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, CMWD may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by CMWD and all work in progress to CMWD address contained in this Agreement. CMWD will make a determination of fact based upon the work product delivered to CMWD and of the percentage of work that Contractor has performed which is usable and of worth to CMWD in having the Agreement completed. Based upon that finding CMWD will determine the final payment of the Agreement.

CMWD may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to CMWD. In the event of termination of this Agreement by either party and upon request of CMWD, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to CMWD. Contractor will be paid for work performed to the termination date; however, the total will not exceed

the lump sum fee payable under this Agreement. CMWD will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, CMWD will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any agreement claim submitted to CMWD must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to CMWD, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If CMWD seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTION AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon CMWD and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of CMWD, which shall not be unreasonably withheld.

**28. THIRD PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the CMWD and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and

understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract, and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}

PSA25-3822CMI

CONTRACTOR  
KLEINFELDER CONSTRUCTION SERVICES, INC.,  
a California corporation

CARLSBAD MUNICIPAL WATER DISTRICT, a  
Public Agency organized under the Municipal  
Water Act of 1911, and a Subsidiary District of  
the City of Carlsbad

By:

*Richard Fitterer*

(sign here)

By:

KEITH BLACKBURN, President

Rich Fitterer  
Vice President & Area Manager

(print name/title)

ATTEST:

SHERRY FREISINGER, Secretary

By:

(sign here)

By:

Director of Constituent & Clerk Services

(print name/title)

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

Group A

Chairman,  
President, **or**  
Vice-President

Group B

Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, General Counsel

By:

*Cindie K. McMahon*

**EXHIBIT A**

**SCOPE OF SERVICES AND FEE**

Contractor shall perform as-needed horizontal construction management and inspection services in accordance with the city's Request for Qualifications (RFQ25-3671CMI) dated March 5, 2025. The agreed upon billing rates for services outlined in said proposal are attached hereto.

All hours billed will be paid at a straight time rate; no overtime billing allowed.

Hours billed on a non-contractor workday must receive prior authorization by city staff.

Rates are inclusive of equipment, vehicle, mileage, laptop computers with wireless connections, cell phone, insurance, travel time, etc.

**KLEINFELDER CONSTRUCTION SERVICES BILLING RATES  
CITY OF CARLSBAD  
AS-NEEDED HORIZONTAL CONSTRUCTION MANAGEMENT AND INSPECTION SERVICES**

**(NON-PREVAILING WAGE)**

<b>Field Staffing Position</b>	<b>Straight Time (\$/Hr Range)</b>
Project Manager	\$273
Safety Inspector	\$263
Construction Manager	\$264
Schedule Engineer	\$273
Resident Engineer	\$220 - \$242
Senior Inspector – Non PW	\$195 - \$220
Wastewater Senior Inspector – Non PW	\$195 - \$220
Office Engineer	\$155 - \$180
Structures Representative	\$205 - \$225

**(PREVAILING WAGE)**

<b>Field Staffing Position</b>	<b>Straight Time</b>
Safety Inspector – PW	\$263
Senior Inspector – PW	\$199 - \$225
Structures Inspector – PW	\$199 - \$225
Wastewater Senior Inspector – PW	\$199 - \$225

Hourly charges include provisions for normal overhead costs such as fringe benefits, insurance, clerical services, equipment, normal supplies and materials. Field personnel are equipped with work trucks, cell phone/radios, laptop computers and basic tools. All other direct costs shall be reimbursed at a rate of costs plus 10%.

Mileage costs for construction managers and inspectors are included in our hourly rate, and we will not be billing separately for mileage expenses for work performed in those classifications. Also, all equipment, cell phones, laptops, insurance, and vehicle charges are included in the hourly rates as well, for all classifications.

<b>SUB-CONSULTANTS</b>			
<b>Firm Name: <u>CPM Partners</u></b>			
	<b><u>NAME/FIRM</u></b>	<b><u>TITLE</u></b>	<b><u>HOURLY RATE</u></b>
1.	Alex Janecek, PE, CCM, QSD	RE, Sr. Scheduler, Sr. Claims	\$252.00
2.	Gordon Costa, PE	Lead Scheduler, Claims	\$277.20
3.	Ahmad Rafiq, PE	RE, Inspector	\$244.65
4.	Pedro Aguilar	ARE, Inspector	\$235.20
5.	Rafael Perez	OE, Inspector	\$235.20
6.	Agusting Salinas, PE	OE, Inspector	\$173.25
7.	Wendy Casdorff	Project Controls, Admin	\$139.65
8.	Ylonda Miles	Admin / Document Control	\$126.00
9.	Ryan Priestman, PMP	Scheduler, Claims Support	\$190.05
10.	Mellissa Leyendecker	OE, Admin	\$140.70
11.	Erick Strickland	Constructability Reviewer	\$222.60

Note: The rates for CPM partners include a 5% subconsultant markup

**MASTER AGREEMENT FOR AS-NEEDED HORIZONTAL CONSTRUCTION MANAGEMENT AND INSPECTION  
VALLEY CM, INC. D.B.A. VALLEY CONSTRUCTION MANAGEMENT**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2025, but effective August 18, 2025, by and between the Carlsbad Municipal Water District, a Public Agency organized under the Municipal Water Act of 1911, and a Subsidiary District of the City of Carlsbad, California ("CMWD"), and Valley CM, Inc., a California corporation d.b.a. Valley Construction Management ("Contractor").

**RECITALS**

- A. CMWD requires the professional services of a consultant that is experienced in construction management and inspection for horizontal projects.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to as-needed horizontal construction management and inspection.
- D. Contractor has submitted a proposal to CMWD responsive to Request for Qualifications RFQ25-3671CMI and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, CMWD and Contractor agree as follows:

**1. SCOPE OF WORK**

CMWD retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A," which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California Area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective from the date first above written to Aug. 17, 2028. The Executive Manager may amend the Agreement to extend it for two (2) additional one (1) year periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, CMWD needs, and appropriation of funds by the CMWD Board of Directors. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by CMWD and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the Executive Manager or General



Manager as authorized by the Executive Manager. The Executive Manager or General Manager will give allowance for documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight on the part of Contractor, or delays caused by CMWD inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed eight hundred thousand dollars (\$800,000) per Agreement year. If the City elects to extend the Agreement pursuant to Section 3, the costs of services may increase by a maximum of 2% per Agreement year, if agreed to by both parties. Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, CMWD shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for CMWD, the Executive Manager or General Manager, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor or subconsultant performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code section 1725.5. California Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work, unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize CMWD's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team

dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. Contractor is required to create a free web-based Procore user account(s) and utilize web-based training/tutorials (as needed) to become familiar with the system. Unless the City of Carlsbad City Engineer approves otherwise, Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, requests for information, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve the contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

#### **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of CMWD. Contractor will be under the control of CMWD only as to the result to be accomplished but will consult with CMWD as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of CMWD for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. CMWD will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. CMWD will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify CMWD and the City of Carlsbad within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which CMWD may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At CMWD's election, CMWD may deduct the indemnification amount from any balance owing to Contractor.

#### **9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

#### **10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of CMWD. If Contractor subcontracts any of the Services, Contractor will be fully responsible to CMWD for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the

subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and CMWD. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by CMWD.

#### **11. OTHER CONTRACTORS**

CMWD reserves the right to employ other Contractors in connection with the Services.

#### **12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by CMWD), indemnify and hold harmless CMWD and the City of Carlsbad and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorney's fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense CMWD or the City of Carlsbad incurs or makes to or on behalf of an injured employee under CMWD's self-administered workers' compensation is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

#### **13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current Best's Key Rating of not less than "A-VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

**13.1 Coverages and Limits.** Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect

Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to CMWD's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 CMWD will be named as an additional insured on General Liability which shall provide primary coverage to CMWD.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to CMWD sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to CMWD's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to CMWD.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then CMWD will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by CMWD to obtain or maintain insurance and CMWD may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. CMWD reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

14. **BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

15. **ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of CMWD during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

16. **OWNERSHIP OF DOCUMENTS**

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of CMWD. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to CMWD. Contractor will have the right to make one (1) copy of the work product for Contractor’s records.

17. **COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in CMWD and Contractor relinquishes all claims to the copyrights in favor of CMWD.

18. **NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of CMWD and on behalf of Contractor under this Agreement.

For CMWD:

Name	Jennifer Chapman
Title	Senior Contract Administrator
Dept	Public Works/CM&I
	<u>CARLSBAD MUNICIPAL WATER DISTRICT</u>
Address	1635 Faraday Ave.
	Carlsbad, CA 92008
Phone	442-339-2780

For Contractor:

Name	Paul Mochel
Title	Principal Construction Manager
Address	3525 Del Mar Heights Rd., #192
	San Diego, CA 92130
Phone	858-444-6804
Email	<a href="mailto:paul.mochel@valleycm.com">paul.mochel@valleycm.com</a>

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

19. **GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and

regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

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CMWD may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to CMWD. In the event of termination of this Agreement by either party and upon request of CMWD, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to CMWD. Contractor will be paid for work performed to the termination date; however, the total will not exceed

the lump sum fee payable under this Agreement. CMWD will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, CMWD will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any agreement claim submitted to CMWD must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to CMWD, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If CMWD seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTION AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon CMWD and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of CMWD, which shall not be unreasonably withheld.

**28. THIRD PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the CMWD and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and

understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}



## CONTRACTOR

VALLEY CM, INC., a California corporation  
d.b.a. Valley Construction Management

By:

Galina Mochel

(sign here)

Galina Mochel, President

(print name/title)

By:

Paul Mochel

(sign here)

Paul Mochel, Secretary

(print name/title)

CARLSBAD MUNICIPAL WATER DISTRICT, a  
Public Agency organized under the Municipal  
Water Act of 1911, and a Subsidiary District of  
the City of Carlsbad

By:

KEITH BLACKBURN, President

ATTEST:

SHERRY FREISINGER, Secretary

By:

Director of Constituent & Clerk Services

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation,  
Agreement must be signed by one corporate officer from each of the following two groups:

Group A

Chairman,  
President, **or**  
Vice-President

Group B

Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, General Counsel

By:

Cindie K. McMahon

**EXHIBIT A**

**SCOPE OF SERVICES AND FEE**

Contractor shall perform as-needed horizontal construction management and inspection services in accordance with the city's Request for Qualifications (RFQ25-3671CMI) dated March 5, 2025. The agreed upon billing rates for services outlined in said proposal are attached hereto.

All hours billed will be paid at a straight time rate; no overtime billing allowed.

Hours billed on a non-contractor workday must receive prior authorization by city staff.

Rates are inclusive of equipment, vehicle, mileage, laptop computers with wireless connections, cell phone, insurance, travel time, etc.

**Master Agreement Consulting Services  
Request for Qualifications (RFQ)  
RFQ25-3671CMI/Discipline No. 1  
As-Needed Horizontal CM&I**

**Rate Schedule**

The following rates are based on prevailing wage rates. The hourly rates for all classifications include all typical direct costs (mileage, equipment including cell phone, laptop, insurance, vehicle charges, etc.).

<b>Name</b>	<b>Title</b>	<b>Hourly Rate</b>
Paul Mochel, PE, CCM	Project Executive	\$190
Lisa Laszlo, CCM	Construction Manager/Inspector	\$180
George Foote	Construction Manager/Inspector	\$180
Chris Marquardt, CCM, ICC	Construction Manager/Inspector	\$180
Matt Luttrell	Senior Inspector	\$165
James Gaddis	Senior Inspector	\$165

**MASTER AGREEMENT FOR AS-NEEDED MATERIALS TESTING  
ATLAS TECHNICAL CONSULTANTS, LLC**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2025, but effective August 18, 2025, by and between the Carlsbad Municipal Water District, a Public Agency organized under the Municipal Water Act of 1911, and a Subsidiary District of the City of Carlsbad, California ("CMWD"), and Atlas Technical Consultants, LLC, a Delaware limited liability company ("Contractor").

**RECITALS**

- A. CMWD requires the professional services of a consultant that is experienced in materials testing.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to as-needed materials testing.
- D. Contractor has submitted a proposal to CMWD responsive to Request for Qualifications RFQ25-3671CMI and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, CMWD and Contractor agree as follows:

**1. SCOPE OF WORK**

CMWD retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A," which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California Area, and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective from the date first above written to Aug. 17, 2028. The Executive Manager may amend the Agreement to extend it for two (2) additional one (1) year periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, CMWD needs, and appropriation of funds by the CMWD Board of Directors. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by CMWD and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the Executive Manager or General

Manager as authorized by the Executive Manager. The Executive Manager or General Manager will give allowance for documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight on the part of Contractor, or delays caused by CMWD inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed six hundred thousand dollars (\$600,000) per Agreement year. If the City elects to extend the Agreement pursuant to Section 3, the costs of services may increase by a maximum of 2% per Agreement year, if agreed to by both parties. Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, CMWD shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for CMWD, the Executive Manager or General Manager, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor or subconsultant performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code section 1725.5. California Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work, unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize CMWD's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team

dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. Contractor is required to create a free web-based Procore user account(s) and utilize web-based training/tutorials (as needed) to become familiar with the system. Unless the City of Carlsbad City Engineer approves otherwise, Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, requests for information, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve the contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

#### **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of CMWD. Contractor will be under the control of CMWD only as to the result to be accomplished, but will consult with CMWD as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of CMWD for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. CMWD will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. CMWD will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify CMWD and the City of Carlsbad within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which CMWD may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At CMWD's election, CMWD may deduct the indemnification amount from any balance owing to Contractor.

#### **9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

#### **10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of CMWD. If Contractor subcontracts any of the Services, Contractor will be fully responsible to CMWD for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the

subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and CMWD. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by CMWD.

#### **11. OTHER CONTRACTORS**

CMWD reserves the right to employ other Contractors in connection with the Services.

#### **12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by CMWD), indemnify and hold harmless CMWD and the City of Carlsbad and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense CMWD or the City of Carlsbad incurs or makes to or on behalf of an injured employee under CMWD's self-administered workers' compensation is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

#### **13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current Best's Key Rating of not less than "A-VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

**13.1 Coverages and Limits.** Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect

Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to CMWD's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 CMWD will be named as an additional insured on General Liability which shall provide primary coverage to CMWD.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to CMWD sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to CMWD's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to CMWD.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then CMWD will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by CMWD to obtain or maintain insurance and CMWD may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.



13.5 Submission of Insurance Policies. CMWD reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

14. **BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

15. **ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of CMWD during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

16. **OWNERSHIP OF DOCUMENTS**

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of CMWD. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to CMWD. Contractor will have the right to make one (1) copy of the work product for Contractor’s records.

17. **COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in CMWD and Contractor relinquishes all claims to the copyrights in favor of CMWD.

18. **NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of CMWD and on behalf of Contractor under this Agreement.

For CMWD:

Name	Jennifer Chapman
Title	Senior Contract Administrator
Dept	Public Works/CM&I
<u>CARLSBAD MUNICIPAL WATER DISTRICT</u>	
Address	1635 Faraday Ave.
	Carlsbad, CA 92008
Phone	442-339-2780

For Contractor:

Name	Dan Ferguson
Title	Field Services Manager
Address	9085 Aero Drive Ste B
	San Diego, CA 92123
Phone	858-531-9777
Email	Daniel.Ferguson@oneatlas.com

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

19. **GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and

regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or CMWD will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, CMWD may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If CMWD decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, CMWD may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by CMWD and all work in progress to CMWD address contained in this Agreement. CMWD will make a determination of fact based upon the work product delivered to CMWD and of the percentage of work that Contractor has performed which is usable and of worth to CMWD in having the Agreement completed. Based upon that finding CMWD will determine the final payment of the Agreement.

CMWD may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to CMWD. In the event of termination of this Agreement by either party and upon request of CMWD, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to CMWD. Contractor will be paid for work performed to the termination date; however, the total will not exceed

the lump sum fee payable under this Agreement. CMWD will make the final determination as to the portions of tasks completed and the compensation to be made.

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Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, CMWD will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

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By signing this Agreement, Contractor agrees that any agreement claim submitted to CMWD must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to CMWD, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If CMWD seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTION AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

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It is mutually understood and agreed that this Agreement will be binding upon CMWD and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of CMWD, which shall not be unreasonably withheld.

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understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

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{signatures on following page}

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

**CONTRACTOR**

Atlas Technical Consultants, LLC, a Delaware  
limited liability company

By:

*Yashar Hooshvar*

(sign here)

Yashar Hooshvar, Hub Leader

(print name/title)

By:

(sign here)

(print name/title)

CARLSBAD MUNICIPAL WATER DISTRICT, a  
Public Agency organized under the Municipal  
Water Act of 1911, and a Subsidiary District of  
the City of Carlsbad

By:

KEITH BLACKBURN, President

ATTEST:

SHERRY FREISINGER, Secretary

By:

Director of Constituent &amp; Clerk Services

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

Group A

Chairman,  
President, **or**  
Vice-President

Group B

Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, General Counsel

By:

*Cindie K. McMahon*

**EXHIBIT A****SCOPE OF SERVICES AND FEE**

Contractor shall perform as-needed materials testing services in accordance with the City/CMWD's Request for Qualifications (RFQ25-3671CMI) dated March 5, 2025.

The City/CMWD will normally schedule work on a prior day basis. The firm's technical shall be onsite within fifteen (15) minutes of the scheduled time and is expected to be prepared to perform the requested tests and tasks. Costs incurred by the City/CMWD due to time delays created by the materials testing firm shall be at the expense of said firm. The City/CMWD will make every effort to coordinate work to allow use of a single technician, but is under no obligation to do so. The City/CMWD may schedule or reschedule work on a same day basis if a technician is available. The City/CMWD will not be held liable for any test cancellation that occurred at least two (2) hours prior to the scheduled time. The City/CMWD will only pay for time spent on site; no charges for mileage or travel time. Rates should be inclusive of vehicle usage and administrative time, which includes coordination, scheduling, billing, etc. The cost of each test performed will also be an inclusive rate that includes vehicle usage, the test, the tools needed to perform the test, the report, pickup and drop off. Time will be billed in 2-hour increments with a 2-hour minimum.

Invoices for services are expected to be reviewed for accuracy before being submitted to the City/CMWD.

If the use of subcontractors is approved by the City/CMWD, they shall be billed at cost plus no more than 10%.

Compaction test reports will be made available in the field at the time of testing where sampling for maximum densities was made available two (2) days prior to testing of soils and aggregates, and the same day for asphalt concrete. When proctors for maximum densities are not available on the day of testing, compaction test results shall be available no later than the next day. Contractor will prepare and submit a formal report as soon as that segment of work is completed or when otherwise requested by the City/CMWD.

**FEE SCHEDULE****MASTER AGREEMENT RATE SCHEDULE**

<b>STAFF</b>	<b>TITLE</b>	<b>HOURLY RATE</b>
Daniel Ferguson	Project Manager	\$190
Erick Aldrich	Principal Engineer	\$250
Morteza Mirshekari	Senior Professional	\$250
Dale Bodman	Senior Professional	\$215
Bryan Rall	Senior Geologist	\$215
Austin Hill	Director of Lab Services	\$190
Daniel Broyles	Field Services Manager	\$190
Chad Bartley	Field Technician	\$142
Anthony Stewart	Field Technician	\$142
Raul Tena	Field Technician	\$142
Peter SteinGillette	Field Technician	\$142
Ismael Gonzalez	Field Technician	\$142
Chris Castaneda	Special Inspector	\$146
Nate Bachour	Special Inspector	\$146
Sam Carbajal	Special Inspector	\$146
<b>PROFESSIONAL SERVICES</b>		
<b>Professional (Engineering, Geology)</b>		
Director/Principal Professional		\$250
Senior Professional		\$215
Project Professional		\$190
Staff Professional		\$160
Drafter Level II		\$120
Drafter Level I		\$110
<b>Project Management</b>		
Senior Project Manager		\$210
Project Manager		\$190
Project Controller		\$95
<b>Field Services (Geotechnical, Special Inspection)</b>		
Field Supervisor		\$190
Off Site Inspector		\$146
Laboratory Technician		\$100
Group 1 (Field Soils, Material Tester)		\$142
Group 2 (Special Inspection)		\$146
Group 3 (NDT Testing)		\$149
Group 4 (Coring)		\$140
NACE Inspector		\$175
<b>Travel, Equipment, and Miscellaneous</b>		
Sample Pick Up		\$100/hour
Vehicle/Truck		\$100/day
Nuclear Gauge		\$50/day
Torque Wrench		\$50/day
Pull Testing		\$75/day
Air Meter		\$50/day
NDT Equipment		\$60/day
Coring Equipment		\$95/day
Travel Time		Hourly Rate
Overtime and Saturday Rate		1.5 x Regular Hourly Rate
Sunday and Nationally Recognized Holiday Rate		2 x Regular Hourly Rate
Rush Surcharge		Normal Rate Plus 50%
Per Diem (variable, depending on location)		Quote
Specialty Equipment Surcharge		Quote

## FEE SCHEDULE

LABORATORY TESTS	
<b>Soil and Aggregate</b>	
California Bearing Ratio (ASTM D854)	\$515
California Impact (Cal 216)	\$255
Clay Lumps in Aggregate (ASTM C142)	\$185
Cleanness Value (Cal 227)	\$245
Compressive Strength of Rock Core (ASTM D7012)	\$320
Consolidation (ASTM D2435)	\$245
Corrosivity Testing (Soluble Chlorides and Sulfates, pH and Resistivity)	\$230
Crushed Particles (Cal 205, ASTM D5821)	\$185
Direct Shear (ASTM D3080)	\$320
Durability Factor (Cal 229, ASTM D3744)	\$120
Durability Index (Cal 229, ASTM D3744)	\$275
Expansion Index (ASTM D4829)	\$220
Fine Aggregate Angularity (AASHTO T304)	\$245
Fineness Modulus (ASTM C136)	\$35
Flat & Elongated Pieces (ASTM D4791)	\$215
Light Weight Pieces (ASTM C123)	\$125
Liquid Limit (Cal 204, ASTM D4318)	\$95
Los Angeles Abrasion (Cal 211, ASTM C131)	\$275
Maximum Density Check Point (ASTM D698/D1557)	\$110
Maximum Density/Optimum Moisture – 4 inch (ASTM D698, D1557)	\$245
Maximum Density/Optimum Moisture – 6 inch (ASTM D698, D1557)	\$270
Minimum Density (ASTM D1556)	\$95
Moisture Content (Cal 226, ASTM C566, ASTM D2216)	\$45
Natural Density Chunk Sample (ASTM D2937)	\$55
Natural Moisture/Density Ring or Core Sample (ASTM D2937)	\$50
One-Dimensional Swell or Collapse of Soils – per point (ASTM D4546)	\$235
Organic Impurities (Cal 213, ASTM C40)	\$115
Organic Matter (ASTM D2974)	\$95
Percent Finer than #200 (ASTM C117, ASTM D1140)	\$90
Permeability Remold Sample (ASTM D2434)	\$245
Permeability Remold Sample (ASTM D5084)	Quote
Permeability Undisturbed Sample (ASTM D5084)	Quote
Petrographic Analysis (Cal 215, ASTM C295)	Quote
pH & Resistivity (Cal 643, ASTM G51)	\$155
Plasticity Index (Cal 204, ASTM 4318)	\$160
Potential Reactivity (ASTM C289)	\$270
Residual Shear (ASTM D6467)	\$545
Rock Correction (ASTM D4718)	\$35
R-Value (Cal 301, ASTM D2844)	\$340
Sand Castle Test (USACE)	\$240
Sand Equivalent (Cal 217, ASTM D2419)	\$110
Sieve Analysis (ASTM C136, ASTM D6913, Cal 202)	\$135
Sieve Analysis with Hydrometer (Cal 203, ASTM D422)	\$245
Soil Cement Compression Strength (Cal 312, ASTM D1633)	\$65
Soil Cement Cylinder Fabrication (Cal 312, ASTM D1632)	\$125
Soil Cement Mixtures, Wetting and Drying (ASTM D559)	\$1,400
Soluble Chlorides (Cal 422)	\$80
Soluble Sulfate (Cal 417)	\$80
Soundness 5 Cycles (Cal 214, ASTM C88)	\$260
Specific Gravity Coarse Aggregate (Cal 206, ASTM C127)	\$145



**FEE SCHEDULE****Soil and Aggregate Continued**

Specific Gravity Fine Aggregate (Cal 207, ASTM C128)	\$145
Thermal Resistivity of Soils (remolded sample) (IEEE 422)	\$1,285
Triaxial Shear Consolidated – Undrained (ASTM D4767)	Quote
Triaxial Shear Unconsolidated – Undrained (ASTM D2850)	Quote
Triaxial Staged Consolidated – Undrained (ASTM D4767)	Quote
Triaxial Staged Unconsolidated – Undrained (ASTM D2850)	Quote
Unconfined Compression (ASTM D2166)	\$200
Unit Weight Aggregate (Cal 212, ASTM C29)	\$100

**Asphalt Concrete**

Asphalt Core Specific Gravity (Cal 308, ASTM D2726)	\$85
Asphalt Core Specific Gravity Waxed (Cal 308, ASTM D1188)	\$105
Emulsion Content (CTM 382)	\$220
Film Stripping (Cal 302)	Quote
Gyratory Compacted Maximum Specific Gravity (AASHTO T312)	\$430
Hamburg Wheel Plant Produced HMA (AASHTO T324/Caltrans Section 39)	\$1,105
Hveem Maximum Bulk Specific Gravity (Cal 308)	\$370
Hveem & Stabilometer Value (Cal 366)	\$490
Ignition Oven Correction Factor (AASHTO T308)	\$310
Ignition Oven Degradation Factor (AASHTO T308)	\$310
Marshall Density Stability & Flow (ASTM D6927)	\$490
Marshall Density (ASTM D6926)	\$370
Moisture Content of Asphalt Mixtures Using Microwave (Cal 370)	\$65
Moisture Vapor Susceptibility (Cal 307)	Quote
Optimum Bitumen Content (AASHTO R35/Cal 367)	\$3,750
Percent Bitumen Asphaltic Concrete (Cal 382, ASTM D6307)	\$220
Residue by Evaporation (Cal 331)	\$220
Rice Maximum Theoretical Specific Gravity AC (Cal 309, ASTM D2041)	\$165
Sieve Analysis Extracted Aggregate (Cal 382, ASTM D5444)	\$115
Stability and Flow (ASTM D1559)	\$430
Stabilometer Value (Cal 366)	\$430
Tensile Strength Ratio Plant Produced HMA (AASHTO T283)	\$1,105
Wet Track Abrasion (ASTM D3910)	\$230

**Concrete**

2X2 Cube Compression	\$35
Chloride Ion Testing (ASTM C1218)	\$270
Concrete Core Compression (ASTM C42)	\$75
Concrete Cylinder Compression (Cal 521, ASTM C39)	\$35
Flex Beam Modulus of Rupture (Cal 523, ASTM C78)	\$95
Modulus of Elasticity (Cal 522, ASTM C469)	\$320
Shotcrete Mockup Panel (ASTM C1140)	\$1,275
Shotcrete Panel, 3 Cores Compression (CBC)	\$360
Shrinkage Hardened Concrete (ASTM C157 Modified)	\$455
Split Tensile Concrete Cylinder (ASTM C496)	\$95
Time of Set (ASTM C403)	\$245
Trial Batch Fabrication (ASTM C192)	\$375
Unit Weight Hardened Concrete (ASTM C642)	\$70
Unit Weight Lightweight Concrete (ASTM C567)	\$90

**Masonry**

Absorption Block (ASTM C140)	\$145
Compression Adobe	\$195
Compression Block Standard (ASTM C140)	\$185
Compression Brick (ASTM C67)	\$145
Efflorescence Block	\$215

**FEE SCHEDULE****Masonry Continued**

Efflorescence Brick (ASTM C67)	\$215
Grout Prism Compression (ASTM C1019)	\$35
Masonry Core Compression (ASTM C42)	\$65
Masonry Core Shear (CBC 2105A.4)	\$120
Masonry Prism Compression (ASTM E447)	\$185
Modulus of Elasticity (Masonry Prism)	\$310
Mortar Bond Strength Pull Test (ASTM C482)	\$80
Mortar Cylinder Compression	\$35
Mortar Shear Strength (ANSI 118)	\$125
Relative Mortar Strength (Cal 515)	\$1,045
Shrinkage Masonry Block (ASTM C426)	\$310
Trial Grout Prisms (ASTM C942)	\$50
Water Retention and Air Content (ASTM C270)	\$675

**Metal**

Bolt Assembly Hardness Test	\$95
Bolt Assembly Tensile & Proof Load Test	\$155
Chemical Analysis	\$235
Modulus of Elasticity (Steel)	\$320
Post-Tension Tendon Tensile Testing	\$230
Tensile Strength & Bend Test Structural Steel (ASTM A370)	\$235
Tensile Strength & Bend Test Reinforcing Steel (ASTM A615/A706)	\$155
Tensile Strength #14 to #18 Bar (ASTM A615)	Quote
Tensile Strength Mechanical Splices #9 and Smaller (Cal 670)	Quote
Tensile Strength Mechanical Splices #10 to #14 (Cal 670)	Quote
Tensile Strength Mechanical Splices #18 (Cal 670)	Quote

**Miscellaneous**

Fireproofing Density Test (ASTM E605)	\$100
Fiber Reinforced Polymer Tensile (ASTM D3039)	\$705
Material Preparation	\$105
SFRM Adhesion/Cohesion Kit	\$55
Relative Humidity Test (ASTM F2170)	\$100/kit
Concrete Vapor Emission Kits (ASTM F1869)	\$90/kit
Miscellaneous Charges	Various
Default Expense	Various

**MASTER AGREEMENT FOR AS-NEEDED MATERIALS TESTING  
NINYO & MOORE GEOTECHNICAL & ENVIRONMENTAL SCIENCES CONSULTANTS**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2025, but effective August 18, 2025, by and between the Carlsbad Municipal Water District, a Public Agency organized under the Municipal Water Act of 1911, and a Subsidiary District of the City of Carlsbad, California ("CMWD"), and Ninyo & Moore Geotechnical & Environmental Sciences Consultants, a California corporation ("Contractor").

**RECITALS**

- A. CMWD requires the professional services of a consultant that is experienced in materials testing.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to as-needed materials testing.
- D. Contractor has submitted a proposal to CMWD responsive to Request for Qualifications RFQ25-3671CMI and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, CMWD and Contractor agree as follows:

**1. SCOPE OF WORK**

CMWD retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A," which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California Area, and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective from the date first above written to Aug. 17, 2028. The Executive Manager may amend the Agreement to extend it for two (2) additional one (1) year periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, CMWD needs, and appropriation of funds by the CMWD Board of Directors. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by CMWD and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the Executive Manager or General

Manager as authorized by the Executive Manager. The Executive Manager or General Manager will give allowance for documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight on the part of Contractor, or delays caused by CMWD inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed six hundred thousand dollars (\$600,000) per Agreement year. If the City elects to extend the Agreement pursuant to Section 3, the costs of services may increase by a maximum of 2% per Agreement year, if agreed to by both parties. Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, CMWD shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for CMWD, the Executive Manager or General Manager, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor or subconsultant performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code section 1725.5. California Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work, unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize CMWD's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team

dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. Contractor is required to create a free web-based Procore user account(s) and utilize web-based training/tutorials (as needed) to become familiar with the system. Unless the City of Carlsbad City Engineer approves otherwise, Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, requests for information, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve the contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

#### **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of CMWD. Contractor will be under the control of CMWD only as to the result to be accomplished, but will consult with CMWD as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of CMWD for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. CMWD will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. CMWD will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify CMWD and the City of Carlsbad within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which CMWD may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At CMWD's election, CMWD may deduct the indemnification amount from any balance owing to Contractor.

#### **9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

#### **10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of CMWD. If Contractor subcontracts any of the Services, Contractor will be fully responsible to CMWD for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the

subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and CMWD. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by CMWD.

#### **11. OTHER CONTRACTORS**

CMWD reserves the right to employ other Contractors in connection with the Services.

#### **12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by CMWD), indemnify and hold harmless CMWD and the City of Carlsbad and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense CMWD or the City of Carlsbad incurs or makes to or on behalf of an injured employee under CMWD's self-administered workers' compensation is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

#### **13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current Best's Key Rating of not less than "A-VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

**13.1 Coverages and Limits.** Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect

Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to CMWD's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 CMWD will be named as an additional insured on General Liability which shall provide primary coverage to CMWD.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to CMWD sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to CMWD's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to CMWD.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then CMWD will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by CMWD to obtain or maintain insurance and CMWD may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. CMWD reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

14. **BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

15. **ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of CMWD during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

16. **OWNERSHIP OF DOCUMENTS**

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of CMWD. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to CMWD. Contractor will have the right to make one (1) copy of the work product for Contractor’s records.

17. **COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in CMWD and Contractor relinquishes all claims to the copyrights in favor of CMWD.

18. **NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of CMWD and on behalf of Contractor under this Agreement.

For CMWD:

Name	Jennifer Chapman
Title	Senior Contract Administrator
Dept	Public Works/CM&I
<u>CARLSBAD MUNICIPAL WATER DISTRICT</u>	
Address	1635 Faraday Ave.
	Carlsbad, CA 92008
Phone	442-339-2780

For Contractor:

Name	Jeffrey T. Kent
Title	Principal Engineer
Address	5710 Ruffin Road
	San Diego, CA 92123
Phone	858-576-1000
Email	<a href="mailto:jkent@ninyoandmoore.com">jkent@ninyoandmoore.com</a>

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

19. **GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and



regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or CMWD will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, CMWD may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If CMWD decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, CMWD may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by CMWD and all work in progress to CMWD address contained in this Agreement. CMWD will make a determination of fact based upon the work product delivered to CMWD and of the percentage of work that Contractor has performed which is usable and of worth to CMWD in having the Agreement completed. Based upon that finding CMWD will determine the final payment of the Agreement.

CMWD may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to CMWD. In the event of termination of this Agreement by either party and upon request of CMWD, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to CMWD. Contractor will be paid for work performed to the termination date; however, the total will not exceed

the lump sum fee payable under this Agreement. CMWD will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, CMWD will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any agreement claim submitted to CMWD must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to CMWD, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If CMWD seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTION AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon CMWD and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of CMWD, which shall not be unreasonably withheld.

**28. THIRD PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the CMWD and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and

understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract, and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}

CONTRACTOR  
NINYO & MOORE GEOTECHNICAL &  
ENVIRONMENTAL SCIENCES CONSULTANTS, a  
California corporation

By:

*Avram Ninyo*

(sign here)

Avram Ninyo, President

(print name/title)

By:

*Elaine O. Autus*

(sign here)

Elaine Autus, Secretary

(print name/title)

CARLSBAD MUNICIPAL WATER DISTRICT, a  
Public Agency organized under the Municipal  
Water Act of 1911, and a Subsidiary District of  
the City of Carlsbad

By:

KEITH BLACKBURN, President

ATTEST:

SHERRY FREISINGER, Secretary

By:

Director of Constituent & Clerk Services

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

Group A

Chairman,  
President, **or**  
Vice-President

Group B

Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, General Counsel

By: *Cindie K. McMahon*

**EXHIBIT A****SCOPE OF SERVICES AND FEE**

Contractor shall perform as-needed materials testing services in accordance with the city/CMWD's Request for Qualifications (RFQ25-3671CMI) dated March 5, 2025.

The City/CMWD will normally schedule work on a prior day basis. The firm's technical shall be onsite within fifteen (15) minutes of the scheduled time and is expected to be prepared to perform the requested tests and tasks. Costs incurred by the City/CMWD due to time delays created by the materials testing firm shall be at the expense of said firm. The City/CMWD will make every effort to coordinate work to allow use of a single technician, but is under no obligation to do so. The City/CMWD may schedule or reschedule work on a same day basis if a technician is available. The City/CMWD will not be held liable for any test cancellation that occurred at least two (2) hours prior to the scheduled time. The City/CMWD will only pay for time spent on site; no charges for mileage or travel time. Rates should be inclusive of vehicle usage and administrative time, which includes coordination, scheduling, billing, etc. The cost of each test performed will also be an inclusive rate that includes vehicle usage, the test, the tools needed to perform the test, the report, pickup and drop off. Time will be billed in 2-hour increments with a 2-hour minimum.

Invoices for services are expected to be reviewed for accuracy before being submitted to the City/CMWD.

If the use of subcontractors is approved by the City/CMWD, they shall be billed at cost plus no more than 10%.

Compaction test reports will be made available in the field at the time of testing where sampling for maximum densities was made available two (2) days prior to testing of soils and aggregates, and the same day for asphalt concrete. When proctors for maximum densities are not available on the day of testing, compaction test results shall be available no later than the next day. Contractor will prepare and submit a formal report as soon as that segment of work is completed or when otherwise requested by the City/CMWD.

**NINYO & MOORE RATE SCHEDULE**

Prices valid through initial Term of Agreement

<b><u>STAFF</u></b>		
	<b><u>TITLE</u></b>	<b><u>HOURLY RATE</u></b>
	<b>PROFESSIONAL STAFF</b>	
1	Principal Engineer/Geologist/Environmental Scientist/Certified Industrial Hygienist	\$195
2	Senior Engineer/Geologist/Environmental Scientist	\$190
3	Senior Project Engineer/Geologist/Environmental Scientist	\$185
4	Project Engineer/Geologist/Environmental Scientist	\$175
5	Senior Staff Engineer/Geologist/Environmental Scientist	\$150
6	Staff Engineer/Geologist/Environmental Scientist	\$145
7	GIS Analyst	\$125
8	Technical Illustrator/CAD Operator	\$103
	<b>FIELD STAFF</b>	
9	Certified Asbestos/Lead Technician	\$185
10	Field Operations Manager	\$125
11	Nondestructive Examination Technician (UT, MT, LP)	\$145
12	Supervisory Technician	\$140
13	Special Inspector (Concrete, Masonry, Structural Steel, Welding, and Fireproofing)	\$140
14	Senior Technician	\$140
15	Technician	\$135
	<b>ADMINISTRATIVE STAFF</b>	
16	Information Specialist	\$85
17	Geotechnical/Environmental/Laboratory Assistant	\$80
18	Data Processor	\$75

**PUBLIC WORKS – REQUEST FOR QUALIFICATIONS RFQ25-3671CMI**

2025 Master Agreement Consultant Services  
for Construction Management & Inspection Services

June 24, 2025

Item #6

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NINOYO & MOORE RATE SCHEDULE

Prices valid through initial Term of Agreement

STAFF		
	TITLE	HOURLY RATE
	OTHER CHARGES	
	Concrete Coring Equipment (includes technician)	\$230/hr
	Anchor Load Test Equipment (includes technician)	\$230/hr
	GPR Equipment	\$200/hr
	Inclinometer	\$110/hr
	Hand Auger Equipment	\$85/hr
	Rebar Locator (Pachometer)	\$25/hr
	Vapor Emission Kit	\$70/kit
	Nuclear Density Gauge	\$12/hr
	X-Ray Fluorescence	\$75/hr
	PID/FID	\$30/hr
	Air Sampling Pump	\$15/hr
	Field Vehicle	\$15/hr
	Expert Witness Testimony	\$450/hr
	Direct Expenses	Cost plus 15%
	Special equipment charges will be provided upon request.	

## Schedule of Fees for Laboratory Testing

### SOILS

Atterberg Limits, D 4318, CT 204	\$ 170
California Bearing Ratio (CBR), D 1883	\$ 550
Chloride and Sulfate Content, CT 417 & CT 422	\$ 175
Consolidation, D 2435, CT 219	\$ 300
Consolidation, Hydro-Collapse only, D 2435	\$ 150
Consolidation – Time Rate, D 2435, CT 219	\$ 200
Direct Shear – Remolded, D 3080	\$ 350
Direct Shear – Undisturbed, D 3080	\$ 300
Durability Index, CT 229	\$ 175
Expansion Index, D 4829, IBC 18-3	\$ 190
Expansion Potential (Method A), D 4546	\$ 170
Geofabric Tensile and Elongation Test, D 4632	\$ 200
Hydraulic Conductivity, D 5084	\$ 350
Hydrometer Analysis, D 6913, CT 203	\$ 220
Moisture, Ash, & Organic Matter of Peat/Organic Soils	\$ 120
Moisture Only, D 2216, CT 226	\$ 35
Moisture and Density, D 2937	\$ 45
Permeability, CH, D 2434, CT 220	\$ 300
pH and Resistivity, CT 643	\$ 175
Proctor Density D1557, D 698, CT 216, AASHTO T-180	\$ 220
Proctor Density with Rock Correction D 1557	\$ 340
R-value, D 2844, CT 301	\$ 375
Sand Equivalent, D 2419, CT 217	\$ 125
Sieve Analysis, D 6913, CT 202	\$ 145
Sieve Analysis, 200 Wash, D 1140, CT 202	\$ 100
Specific Gravity, D 854	\$ 125
Thermal Resistivity (ASTM 5334, IEEE 442)	\$ 925
Triaxial Shear, C.D., D 4767, T 297	\$ 550
Triaxial Shear, C.U., w/pore pressure, D 4767, T 2297 per pt	\$ 450
Triaxial Shear, C.U., w/o pore pressure, D 4767, T 2297 per pt	\$ 350
Triaxial Shear, U.U., D 2850	\$ 250
Unconfined Compression, D 2166, T 208	\$ 180

### MASONRY

Brick Absorption, 24-hour submersion, 5-hr boiling, 7-day, C 67	\$ 70
Brick Compression Test, C 67	\$ 55
Brick Efflorescence, C 67	\$ 55
Brick Modulus of Rupture, C 67	\$ 50
Brick Moisture as received, C 67	\$ 45
Brick Saturation Coefficient, C 67	\$ 60
Concrete Block Compression Test, 8x8x16, C 140	\$ 70
Concrete Block Conformance Package, C 90	\$ 500
Concrete Block Linear Shrinkage, C 426	\$ 200
Concrete Block Unit Weight and Absorption, C 140	\$ 70
Cores, Compression or Shear Bond, CA Code	\$ 70
Masonry Grout, 3x3x6 prism compression, C 39	\$ 45
Masonry Mortar, 2x2 cube compression, C 109	\$ 35
Masonry Prism, half size, compression, C 1019	\$ 120
Masonry Prism, Full size, compression, C 1019	\$ 200

### REINFORCING AND STRUCTURAL STEEL

Chemical Analysis, A 36, A 615	\$ 135
Fireproofing Density Test, UBC 7-6	\$ 90
Hardness Test, Rockwell, A 370	\$ 80
High Strength Bolt, Nut & Washer Conformance, per assembly, A 325	\$ 150
Mechanically Spliced Reinforcing Tensile Test, ACI	\$ 175
Pre-Stress Strand (7 wire), A 416	\$ 170
Reinforcing Tensile or Bend up to No. 11, A 615 & A 706	\$ 75
Structural Steel Tensile Test: Up to 200,000 lbs., A 370	\$ 90
Welded Reinforcing Tensile Test: Up to No. 11 bars, ACI	\$ 80

### CONCRETE

Compression Tests, 6x12 Cylinder, C 39	\$ 35
Concrete Mix Design Review, Job Spec	\$ 300
Concrete Mix Design, per Trial Batch, 6 cylinder, ACI	\$ 850
Concrete Cores, Compression (excludes sampling), C 42	\$ 120
Drying Shrinkage, C 157	\$ 400
Flexural Test, C 78	\$ 85
Flexural Test, C 293	\$ 85
Flexural Test, CT 523	\$ 95
Gunite/Shotcrete, Panels, 3 cut cores per panel and test, ACI	\$ 275
Lightweight Concrete Fill, Compression, C 495	\$ 80
Petrographic Analysis, C 856	\$ 2,000
Restrained Expansion of Shrinkage Compensation	\$ 450
Splitting Tensile Strength, C 496	\$ 100
3x6 Grout, (CLSM), C 39	\$ 55
2x2x2 Non-Shrink Grout, C 109	\$ 55

### ASPHALT

Air Voids, T 269	\$ 85
Asphalt Mix Design, Caltrans (incl. Aggregate Quality)	\$ 4,500
Asphalt Mix Design Review, Job Spec	\$ 180
Dust Proportioning, CT LP-4	\$ 85
Extraction, % Asphalt, including Gradation, D 2172, CT 382	\$ 250
Extraction, % Asphalt without Gradation, D 2172, CT 382	\$ 150
Film Stripping, CT 302	\$ 120
Hveem Stability and Unit Weight D 1560, T 246, CT 366	\$ 225
Marshall Stability, Flow and Unit Weight, T 245	\$ 240
Maximum Theoretical Unit Weight, D 2041, CT 309	\$ 150
Moisture Content, CT 370	\$ 95
Moisture Susceptibility and Tensile Stress Ratio, T 238, CT 371	\$ 1,000
Slurry Wet Track Abrasion, D 3910	\$ 150
Superpave, Asphalt Mix Verification (incl. Aggregate Quality)	\$ 4,900
Superpave, Gyration Unit Wt., T 312	\$ 100
Superpave, Hamburg Wheel, 20,000 passes, T 324	\$ 1,000
Unit Weight sample or core, D 2726, CT 308	\$ 100
Voids in Mineral Aggregate, (VMA) CT LP-2	\$ 90
Voids filled with Asphalt, (VFA) CT LP-3	\$ 90
Wax Density, D 1188	\$ 140

### AGGREGATES

Clay Lumps and Friable Particles, C 142	\$ 180
Cleanliness Value, CT 227	\$ 180
Crushed Particles, CT 205	\$ 175
Durability, Coarse or Fine, CT 229	\$ 205
Fine Aggregate Angularity, ASTM C 1252, T 304, CT 234	\$ 180
Flat and Elongated Particle, D 4791	\$ 220
Lightweight Particles, C 123	\$ 180
Los Angeles Abrasion, C 131 or C 535	\$ 200
Material Finer than No. 200 Sieve by Washing, C 117	\$ 90
Organic Impurities, C 40	\$ 90
Potential Alkali Reactivity, Mortar Bar Method, Coarse, C 1260	\$ 1,250
Potential Alkali Reactivity, Mortar Bar Method, Fine, C 1260	\$ 950
Potential Reactivity of Aggregate (Chemical Method), C 289	\$ 475
Sand Equivalent, T 176, CT 217	\$ 125
Sieve Analysis, Coarse Aggregate, T 27, C 136	\$ 120
Sieve Analysis, Fine Aggregate (including wash), T 27, C 136	\$ 145
Sodium Sulfate Soundness, C 88	\$ 450
Specific Gravity and Absorption, Coarse, C 127, CT 206	\$ 115
Specific Gravity and Absorption, Fine, C 128, CT 207	\$ 175

### ROOFING

Roofing Tile Absorption, (set of 5), C 67	\$ 250
Roofing Tile Strength Test, (set of 5), C 67	\$ 250

Special preparation of standard test specimens will be charged at the technician's hourly rate.  
Ninyo & Moore is accredited to perform the AASHTO equivalent of many ASTM test procedures.



**MASTER AGREEMENT FOR AS-NEEDED MATERIALS TESTING  
NV5, INC.**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2025, but effective August 18, 2025, by and between the Carlsbad Municipal Water District, a Public Agency organized under the Municipal Water Act of 1911, and a Subsidiary District of the City of Carlsbad, California ("CMWD"), and NV5, Inc., a California corporation ("Contractor").

**RECITALS**

- A. CMWD requires the professional services of a consultant that is experienced in materials testing.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to as-needed materials testing.
- D. Contractor has submitted a proposal to CMWD responsive to Request for Qualifications RFQ25-3671CMI and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, CMWD and Contractor agree as follows:

**1. SCOPE OF WORK**

CMWD retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A," which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California Area, and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective from the date first above written to Aug. 17, 2028. The Executive Manager may amend the Agreement to extend it for two (2) additional one (1) year periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, CMWD needs, and appropriation of funds by the CMWD Board of Directors. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by CMWD and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the Executive Manager or General Manager as authorized by the Executive Manager. The Executive Manager or General Manager will give

allowance for documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight on the part of Contractor, or delays caused by CMWD inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed six hundred thousand dollars (\$600,000) per Agreement year. If the City elects to extend the Agreement pursuant to Section 3, the costs of services may increase by a maximum of 2% per Agreement year, if agreed to by both parties. Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, CMWD shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for CMWD, the Executive Manager or General Manager, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor or subconsultant performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code section 1725.5. California Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work, unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procure Project Management and Collaboration System. This project may utilize CMWD's Procure ([www.procure.com](http://www.procure.com)) online project management and document control platform. The intent of utilizing Procure is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and

decreasing turnaround times. Contractor is required to create a free web-based Procore user account(s) and utilize web-based training/tutorials (as needed) to become familiar with the system. Unless the City of Carlsbad City Engineer approves otherwise, Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, requests for information, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve the contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

#### **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of CMWD. Contractor will be under the control of CMWD only as to the result to be accomplished, but will consult with CMWD as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of CMWD for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. CMWD will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. CMWD will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify CMWD and the City of Carlsbad within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which CMWD may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At CMWD's election, CMWD may deduct the indemnification amount from any balance owing to Contractor.

#### **9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

#### **10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of CMWD. If Contractor subcontracts any of the Services, Contractor will be fully responsible to CMWD for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor.

Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and CMWD. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by CMWD.

**11. OTHER CONTRACTORS**

CMWD reserves the right to employ other Contractors in connection with the Services.

**12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by CMWD), indemnify and hold harmless CMWD and the City of Carlsbad and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense CMWD or the City of Carlsbad incurs or makes to or on behalf of an injured employee under CMWD's self-administered workers' compensation is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

**13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current Best's Key Rating of not less than "A-VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

**13.1 Coverages and Limits.** Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will

obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to CMWD's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 CMWD will be named as an additional insured on General Liability which shall provide primary coverage to CMWD.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to CMWD sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to CMWD's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to CMWD.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then CMWD will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by CMWD to obtain or maintain insurance and CMWD may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. CMWD reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

14. **BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

15. **ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of CMWD during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

16. **OWNERSHIP OF DOCUMENTS**

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of CMWD. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to CMWD. Contractor will have the right to make one (1) copy of the work product for Contractor’s records.

17. **COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in CMWD and Contractor relinquishes all claims to the copyrights in favor of CMWD.

18. **NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of CMWD and on behalf of Contractor under this Agreement.

For CMWD:

Name	Jennifer Chapman
Title	Senior Contract Administrator
Dept	Public Works/CM&I
<u>CARLSBAD MUNICIPAL WATER DISTRICT</u>	
Address	1635 Faraday Ave.
	Carlsbad, CA 92008
Phone	442-339-2780

For Contractor:

Name	Shafiq Popalzai
Title	Vice President
Address	15092 Avenue of Science, Ste. 200
	San Diego, CA 92128
Phone	858-385-0500
Email	<a href="mailto:Shafiq.popalzai@nv5.com">Shafiq.popalzai@nv5.com</a>

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

19. **GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and

regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or CMWD will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, CMWD may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If CMWD decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, CMWD may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by CMWD and all work in progress to CMWD address contained in this Agreement. CMWD will make a determination of fact based upon the work product delivered to CMWD and of the percentage of work that Contractor has performed which is usable and of worth to CMWD in having the Agreement completed. Based upon that finding CMWD will determine the final payment of the Agreement.

CMWD may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to CMWD. In the event of termination of this Agreement by either party and upon request of CMWD, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to CMWD. Contractor will be paid for work performed to the termination date; however, the total will not exceed

the lump sum fee payable under this Agreement. CMWD will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, CMWD will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any agreement claim submitted to CMWD must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to CMWD, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If CMWD seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTION AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon CMWD and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of CMWD, which shall not be unreasonably withheld.

**28. THIRD PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the CMWD and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and



understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract, and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

{signatures on following page}

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

CONTRACTOR  
NV5, INC., a California corporation

CARLSBAD MUNICIPAL WATER DISTRICT, a  
Public Agency organized under the Municipal  
Water Act of 1911, and a Subsidiary District of  
the City of Carlsbad

By:

Shafiq Popalzai  
(sign here)

Shafiq Popalzai, Vice President of  
Conformity Assessment Solutions  
(print name/title)

By:

(sign here)

(print name/title)

By:

KEITH BLACKBURN, President

ATTEST:

SHERRY FREISINGER, Secretary

By:

Director of Constituent & Clerk Services

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

Group A  
Chairman,  
President, **or**  
Vice-President

Group B  
Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, General Counsel

By: Cindie K. McMahon

**EXHIBIT A****SCOPE OF SERVICES AND FEE**

Contractor shall perform as-needed materials testing services in accordance with the city/CMWD's Request for Qualifications (RFQ25-3671CMI) dated March 5, 2025.

The City/CMWD will normally schedule work on a prior day basis. The firm's technical shall be onsite within fifteen (15) minutes of the scheduled time and is expected to be prepared to perform the requested tests and tasks. Costs incurred by the City/CMWD due to time delays created by the materials testing firm shall be at the expense of said firm. The City/CMWD will make every effort to coordinate work to allow use of a single technician, but is under no obligation to do so. The City/CMWD may schedule or reschedule work on a same day basis if a technician is available. The City/CMWD will not be held liable for any test cancellation that occurred at least two (2) hours prior to the scheduled time. The City/CMWD will only pay for time spent on site; no charges for mileage or travel time. Rates should be inclusive of vehicle usage and administrative time, which includes coordination, scheduling, billing, etc. The cost of each test performed will also be an inclusive rate that includes vehicle usage, the test, the tools needed to perform the test, the report, pickup and drop off. Time will be billed in 2-hour increments with a 2-hour minimum.

Invoices for services are expected to be reviewed for accuracy before being submitted to the City/CMWD.

If the use of subcontractors is approved by the City/CMWD, they shall be billed at cost plus no more than 10%.

Compaction test reports will be made available in the field at the time of testing where sampling for maximum densities was made available two (2) days prior to testing of soils and aggregates, and the same day for asphalt concrete. When proctors for maximum densities are not available on the day of testing, compaction test results shall be available no later than the next day. Contractor will prepare and submit a formal report as soon as that segment of work is completed or when otherwise requested by the City/CMWD.

# FEE SCHEDULE

PROFESSIONAL STAFF			
<u>Personnel</u>			
Senior Principal Engineer / Geologist			\$245.00/hr.
Principal Engineer / Geologist			\$225.00/hr.
Associate Engineer / Geologist			\$205.00/hr.
Senior Engineer / Geologist			\$185.00/hr.
Project Engineer / Geologist			\$155.00/hr.
Senior Staff Engineer / Geologist			\$135.00/hr.
Staff Engineer / Geologist			\$120.00/hr.
Senior Project Manager			\$170.00/hr.
Project Manager			\$150.00/hr.
Field Supervisor			\$150.00/hr.
Administration Staff			\$75.00/hr.
FIELD STAFF			
		Prevailing Wage	
Soil / ACI Technician I		\$145.00	/hr.
- Vehicle Charge		Inc.	/day
- Equipment Charge		Inc.	/hour
ICC Special Inspector I (Concrete, Masonry, Steel, Bolt, Fireproofing)		\$145.00	/hr.
Certified Welding Inspector I		\$175.00	/hr.
NDT Technician		\$170.00	/hr.
Laboratory Technician		\$80.00	/hr.
Ground Penetrating Radar (Technician and Equipment)		\$198.00	/hr.
Coring Equipment Fee		\$70.00	/hr.
Torque/Pull Testing (Technician and Equipment)		\$130.00	/hr.
"Wildcat", 35-lb hammer Dynamic Cone Penetrometer (DCP) with tech		\$400.00	/hr.
Lightweight 5-lb Gas Dynamic Cone Penetrometer (DCP) equip with tech		\$180.00	/hr.
Seismic Refraction Survey Using Geode 24-Channel Seismodule		\$3,150.00	
Fall of Potential Ground Testing (Ground Rod Test) - Initial Test		\$975.00	
Fall of Potential Ground Testing (Ground Rod Test) - Subsequent Test		\$585.00	
Pick-Up		Inc.	/hr.
LABORATORY FEE SCHEDULE			
<b><i>Asphalt Concrete</i></b>			
Asphalt Mix Design Review			\$375.00/ea.
Hveem Stability			\$215.00/ea.
Hveem Unit Weight Sample Requiring Compaction			\$200.00/ea.
Marshall Stability, Flow & Unit Weight		210.00/ea. (per test specimen)	
Maximum Theoretical Unit Weight (Rice)			\$210.00/ea.
Extraction - Ignition Oven (including gradation)			\$245.00/ea.
Percent Swell			\$160.00/ea.
Unit Wt Compacted Sample (Specific Gravity)			\$95.00/ea.
<b><i>Aggregates</i></b>			
Absorption Test, Coarse Aggregate			\$54.00/ea.

# FEE SCHEDULE

<b>LABORATORY FEE SCHEDULE (CONTINUED)</b>	
Absorption Test, Fine Aggregate	\$54.00/ea.
Clay Lumps & Friable Particles	\$135.00/ea.
Cleanness Value	\$160.00/ea.
Crushed Particles, Percent	\$205.00/ea.
Durability Index, Coarse Aggregate	\$130.00/ea.
Durability Index, Fine Aggregate	\$130.00/ea.
Abrasion Resistance by LA Rattler	\$205.00/ea.
Organic Impurities in Sand	\$80.00/ea.
Sieve Analysis Coarse Aggregate	\$100.00/ea.
Sieve Analysis Coarse & Fine Aggregate (includes Wash)	\$140.00/ea.
Sodium Sulfate Soundness (5 cycle test per primary size)	\$390.00/ea.
Specific Gravity, Fine Aggregate	\$95.00/ea.
Specific Gravity, Coarse Aggregate	\$85.00/ea.
Unit Weight (per cubic foot) Voids in Aggregate	\$75.00/ea.
Rock Core (Compressive Strength)	\$95.00/ea.
<b><i>Structural/Reinforcing Steel</i></b>	
Headed Rebar Tensile Test - No. 8 Bar and Smaller <	\$115.00/ea.
Headed Rebar Tensile Test - No. 9 Bar to No. 11	\$140.00/ea.
H. S. Bolt Conformance- Bolt, Nut & Washer (DSA)	\$480.00/ea.
Mechanically Spliced Reinforcing Steel - No. 8 Bar and Smaller <	\$200.00/ea.
Mechanically Spliced Reinforcing Steel - No. 9 Bar to No. 11	\$215.00/ea.
Mechanically Spliced Reinforcing Steel - No. 14	\$235.00/ea.
Mechanically Spliced Reinforcing Steel - Slippage	\$42.00/ea.
Mechanical Tests, Hardness Test, Rockwell	\$118.00/ea.
Prestressed Steel, Tensile Test, Strand (7-wire Coated)	\$235.00/ea.
Prestressed Steel, Tensile Test, Strand (7-wire Uncoated)	\$275.00/ea.
Reinforcing Steel, Tensile Test - No. 8 Bar and Smaller <	\$95.00/ea.
Reinforcing Steel, Tensile Test - No. 9 Bar to No. 11	\$108.00/ea.
Reinforcing Steel, Tensile Test - No. 11 Bar and Greater >	Quote
Reinforcing Steel, Bend Test	\$75.00/ea.
Spray-applied Fireproofing Density Tests	\$110.00/ea.
Structural Steel, Tensile - Up to 200,000 lbs.	\$160.00/ea.
Structural Steel, Bend Test	\$105.00/ea.
Welded Specimens, Tensile Test	\$135.00/ea.
Chemical Analysis	Quote
Machining Costs If Required	\$80.00/hr.
<b><i>Masonry</i></b>	
Absorption Test, Brick	\$65.00/ea.
Compression Test, Composite Prism	\$185.00/ea.
Compression Test, Brick	\$55.00/ea.
Compression Test, Blocks	\$95.00/ea.
Compression Test, Cores (does not include Coring for samples)	\$80.00/ea.
Compression Test, Grout / Mortar	\$37.00/ea.
Masonry Block Conformance (Does not include shrinkage)	\$480.00/ea.

# FEE SCHEDULE

<b>LABORATORY FEE SCHEDULE (CONTINUED)</b>	
Modulus of Rupture, Brick	\$55.00/ea.
Moisture as Received, Brick	\$55.00/ea.
Saturation Coefficient Brick	\$55.00/ea.
Unit Weight & Absorption, Block	\$80.00/ea.
Efflorescence, Block or Brick Only	\$80.00/ea.
Linear Shrinkage	\$270.00/ea.
Masonry Core Shear Test	\$130.00/ea.
<b><i>Soils</i></b>	
Soil Processing Fee (per sample)	\$22.00/ea.
Chloride Content of Soil	\$85.00/ea.
Consolidation (up to 9 loads)	\$295.00/ea.
Direct Shear (undisturbed ring specimens)	\$270.00/ea.
Direct Shear (remolded specimens)	\$315.00/ea.
Expansion Index	\$170.00/ea.
Proctor (per curve) - 4-inch mold	\$210.00/ea.
Proctor (per curve) - 6-inch mold	\$275.00/ea.
Rock Correction (if required)	\$75.00/ea.
Moisture Content / Dry Density	\$42.00/ea.
Organic Matter	\$80.00/ea.
Plasticity Index/Liquid Limit (Atterberg Limit)	\$160.00/ea.
R-value (minimum 3 points)	\$340.00/ea.
Resistivity & pH of Soil	\$180.00/ea.
Sand Equivalent	\$100.00/ea.
Sieve Analysis	\$135.00/ea.
Sieve Analysis, with Hydrometer	\$270.00/ea.
No. 200 Mesh Wash Particle Size Gradation	\$95.00/ea.
Sulfate Content of Soil	\$85.00/ea.
Thermal Resistivity of Soil (including 1 proctor curve)	\$1300.00/ea.
<b><i>Concrete</i></b>	
Compression Test, 4x8 Cylinder	\$32.00/ea.
Compression Test, 6x12 Cylinder	\$34.00/ea.
Compression Test Gunite / Shotcrete (3 Cores/Panel, Coring Included)	\$420.00/ea.
Compression Test, Core (incl sample prep)	\$80.00/ea.
Compression Test, Lightweight Concrete Fill	\$53.00/ea.
Compression Test, Non-shrink Grout Cubes	\$53.00/ea.
Concrete Flexural Test	\$95.00/ea.
Concrete Mix Design (revision or review)	\$375.00/ea.
Drying Shrinkage (3 specimens - 28 days)	\$375.00/ea.
Modulus of Elasticity, Static	\$270.00/ea.
Splitting Tensile Strength	\$105.00/ea.
Thermal Resistivity Testing of Concrete / FTB	\$485.00/ea.
Unit Weight, Lightweight Concrete Fill	\$80.00/ea.

**MASTER AGREEMENT FOR AS-NEEDED MATERIALS TESTING  
VERDANTAS INC.**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2025, but effective August 18, 2025, by and between the Carlsbad Municipal Water District, a Public Agency organized under the Municipal Water Act of 1911, and a Subsidiary District of the City of Carlsbad, California ("CMWD"), and Verdantas Inc., a California corporation ("Contractor").

**RECITALS**

- A. CMWD requires the professional services of a consultant that is experienced in materials testing.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to as-needed materials testing.
- D. Contractor has submitted a proposal to CMWD responsive to Request for Qualifications RFQ25-3671CMI and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, CMWD and Contractor agree as follows:

**1. SCOPE OF WORK**

CMWD retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A," which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California Area, and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective from the date first above written to Aug. 17, 2028. The Executive Manager may amend the Agreement to extend it for two (2) additional one (1) year periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, CMWD needs, and appropriation of funds by the CMWD Board of Directors. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by CMWD and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the Executive Manager or General Manager as authorized by the Executive Manager. The Executive Manager or General Manager will give

allowance for documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight on the part of Contractor, or delays caused by CMWD inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed six hundred thousand dollars (\$600,000) per Agreement year. If the City elects to extend the Agreement pursuant to Section 3, the costs of services may increase by a maximum of 2% per Agreement year, if agreed to by both parties. Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, CMWD shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for CMWD, the Executive Manager or General Manager, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor or subconsultant performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code section 1725.5. California Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work, unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procure Project Management and Collaboration System. This project may utilize CMWD's Procure ([www.procure.com](http://www.procure.com)) online project management and document control platform. The intent of utilizing Procure is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and



decreasing turnaround times. Contractor is required to create a free web-based Procore user account(s) and utilize web-based training/tutorials (as needed) to become familiar with the system. Unless the City of Carlsbad City Engineer approves otherwise, Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, requests for information, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve the contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

#### **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of CMWD. Contractor will be under the control of CMWD only as to the result to be accomplished, but will consult with CMWD as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of CMWD for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. CMWD will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. CMWD will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify CMWD and the City of Carlsbad within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which CMWD may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At CMWD's election, CMWD may deduct the indemnification amount from any balance owing to Contractor.

#### **9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

#### **10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of CMWD. If Contractor subcontracts any of the Services, Contractor will be fully responsible to CMWD for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor.

Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and CMWD. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by CMWD.

**11. OTHER CONTRACTORS**

CMWD reserves the right to employ other Contractors in connection with the Services.

**12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by CMWD), indemnify and hold harmless CMWD and the City of Carlsbad and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense CMWD or the City of Carlsbad incurs or makes to or on behalf of an injured employee under CMWD's self-administered workers' compensation is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

**13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current Best's Key Rating of not less than "A-VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

**13.1 Coverages and Limits.** Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will

obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to CMWD's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 CMWD will be named as an additional insured on General Liability which shall provide primary coverage to CMWD.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to CMWD sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to CMWD's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to CMWD.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then CMWD will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by CMWD to obtain or maintain insurance and CMWD may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. CMWD reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

**14. BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

**15. ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of CMWD during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

**16. OWNERSHIP OF DOCUMENTS**

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of CMWD. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to CMWD. Contractor will have the right to make one (1) copy of the work product for Contractor's records.

**17. COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in CMWD and Contractor relinquishes all claims to the copyrights in favor of CMWD.

**18. NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of CMWD and on behalf of Contractor under this Agreement.

For CMWD:

Name	Jennifer Chapman
Title	Senior Contract Administrator
Dept	Public Works/CM&I
<u>CARLSBAD MUNICIPAL WATER DISTRICT</u>	
Address	1635 Faraday Ave.
	Carlsbad, CA 92008
Phone	442-339-2780

For Contractor:

Name	Kristen D. Williams
Title	Area Leader/Vice President
Address	3934 Murphy Canyon Rd., Ste. B-205
	San Diego, CA 92123
Phone	858-292-8030
Email	kwilliams@verdantas.com

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

**19. GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and

regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or CMWD will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, CMWD may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If CMWD decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, CMWD may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by CMWD and all work in progress to CMWD address contained in this Agreement. CMWD will make a determination of fact based upon the work product delivered to CMWD and of the percentage of work that Contractor has performed which is usable and of worth to CMWD in having the Agreement completed. Based upon that finding CMWD will determine the final payment of the Agreement.

CMWD may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to CMWD. In the event of termination of this Agreement by either party and upon request of CMWD, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to CMWD. Contractor will be paid for work performed to the termination date; however, the total will not exceed

the lump sum fee payable under this Agreement. CMWD will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, CMWD will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any agreement claim submitted to CMWD must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to CMWD, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If CMWD seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTION AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon CMWD and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of CMWD, which shall not be unreasonably withheld.

**28. THIRD PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the CMWD and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and

understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract, and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}

CONTRACTOR  
VERDANTAS INC., a California corporation

CARLSBAD MUNICIPAL WATER DISTRICT, a  
Public Agency organized under the Municipal  
Water Act of 1911, and a Subsidiary District of  
the City of Carlsbad

By:

Kristen D. Williams

(sign here)

Kristen D. Williams, Vice President

(print name/title)

By:

Pat Sheridan

(sign here)

Pat Sheridan, CFO

(print name/title)

By:

KEITH BLACKBURN, President

ATTEST:

SHERRY FREISINGER, Secretary

By:

Director of Constituent & Clerk Services

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

Group A

Chairman,  
President, **or**  
Vice-President

Group B

Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, General Counsel

By:

Cindie K. McMahon



**EXHIBIT A****SCOPE OF SERVICES AND FEE**

Contractor shall perform as-needed materials testing services in accordance with the city/CMWD's Request for Qualifications (RFQ25-3671CMI) dated March 5, 2025.

The City/CMWD will normally schedule work on a prior day basis. The firm's technical shall be onsite within fifteen (15) minutes of the scheduled time and is expected to be prepared to perform the requested tests and tasks. Costs incurred by the City/CMWD due to time delays created by the materials testing firm shall be at the expense of said firm. The City/CMWD will make every effort to coordinate work to allow use of a single technician, but is under no obligation to do so. The City/CMWD may schedule or reschedule work on a same day basis if a technician is available. The City/CMWD will not be held liable for any test cancellation that occurred at least two (2) hours prior to the scheduled time. The City/CMWD will only pay for time spent on site; no charges for mileage or travel time. Rates should be inclusive of vehicle usage and administrative time, which includes coordination, scheduling, billing, etc. The cost of each test performed will also be an inclusive rate that includes vehicle usage, the test, the tools needed to perform the test, the report, pickup and drop off. Time will be billed in 2-hour increments with a 2-hour minimum.

Invoices for services are expected to be reviewed for accuracy before being submitted to the City/CMWD.

If the use of subcontractors is approved by the City/CMWD, they shall be billed at cost plus no more than 10%.

Compaction test reports will be made available in the field at the time of testing where sampling for maximum densities was made available two (2) days prior to testing of soils and aggregates, and the same day for asphalt concrete. When proctors for maximum densities are not available on the day of testing, compaction test results shall be available no later than the next day. Contractor will prepare and submit a formal report as soon as that segment of work is completed or when otherwise requested by the City/CMWD.

**SAMPLE MASTER AGREEMENT RATE SCHEDULE Prices**

valid through initial Term of Agreement

<b><u>STAFF</u></b>			
	<b><u>NAME</u></b>	<b><u>TITLE</u></b>	<b><u>HOURLY RATE</u></b>
1.	Robert Stroh, PG, CEG	Project Manager	\$265.00
2.	Nicholas Tracy, PE, GE	Quality Reviewer	\$235.00
3.	Steve Norton, PE, PG	Project Engineer	\$190.00
4.	Roy Butz, PG, CEG	Associate Geologist	\$235.00
5.	Todd Schmitz, PG, CEG	Senior Project Engineer	\$215.00
6.	Roderick Marcia, PE	Principal Materials Engineer	\$265.00
7.	Matthew Vinet	Lab Manager	\$185.00
8.	Siegert (Lynn) Reid	Field Supervisor	\$150.00
9.	Aston James	Field Materials Tester	\$115.00
10.	Michael Colburn	Field Materials Tester	\$115.00
11.	Neil Carey	Field Materials Tester	\$115.00
12.	Louis Parrella	Lab Technician	\$115.00
13.	Edwin Panopio	Field Materials Tester	\$115.00
14.	Stacy Weimer	Senior Special Inspector	\$115.00

<b><u>EXPENSES</u></b>			
	<b><u>DESCRIPTION</u></b>	<b><u>COST</u></b>	<b><u>% MARKUP</u></b>
1.	please see the attached fee schedule and fee sheet for testing services and equipment		
2.			
3.			
4.			

**PUBLIC WORKS – REQUEST FOR QUALIFICATIONS RFQ25-3671CMI**

2025 Master Agreement Consultant Services  
for Construction Management & Inspection Services

**EXHIBIT B – SAMPLE MASTER AGREEMENT RATE SCHEDULE**

Prices valid through initial Term of Agreement

<u>SUB-CONSULTANTS</u>			
	<u>NAME/FIRM</u>	<u>TITLE</u>	<u>HOURLY RATE</u>
1.	Please see the attached fee schedules		
2.			
3.			
9.			
10.			

**PUBLIC WORKS – REQUEST FOR QUALIFICATIONS RFQ25-3671CMI**

2025 Master Agreement Consultant Services  
for Construction Management & Inspection Services



## 2025 AMENDED BILLING RATE SCHEDULE (Verdantas West)

### Professional Services

	<u>Hourly Rate</u>
Senior Consultant I, Associate	\$235.00
Senior Consultant II, Principal	\$265.00
Senior Consultant III, Sr. Principal	\$310.00
Project Manager	\$190.00
Senior Project Manager	\$215.00
Staff Engineer/Scientist/Geologist	\$155.00
Senior Staff Engineer/Scientist/Geologist	\$165.00
Project Engineer/Scientist/Geologist	\$190.00
Senior Engineer/Scientist/Geologist	\$215.00

### Support

	<u>Hourly Rate</u>
Field/Lab Technician I	\$90.00
Field/Lab Technician II/Special Inspector	\$100.00
Field/Lab Technician III/Special Inspector II	\$105.00
Senior Technician/Senior Special Inspector	\$115.00
Source Inspector	\$135.00
System Operation & Maintenance Specialist	\$150.00
Non-Destructive Testing (NDT) Specialist	\$170.00
Prevailing Wage (Group 1) *	\$145.00
Prevailing Wage (Group 2) *	\$158.00
Prevailing Wage (Group 3) *	\$160.00
City of Los Angeles Deputy Building/ Grading Inspector	\$160.00

### Support Cont'd

	<u>Hourly Rate</u>
Administrative//Technical	\$90.00
Editor/ Project Coordinator I	
Administrative//Technical	\$105.00
Editor/Project Coordinator II	
Operations / Laboratory Manager	\$185.00
Field/Lab Supervisor	\$150.00

### CAD/GIS/Data Management

	<u>Hourly Rate</u>
CAD Designer I	\$145.00
CAD Designer II	\$160.00
Project Designer	\$165.00
Senior Project Designer	\$185.00
CAD Technician I	\$125.00
CAD Technician II	\$140.00
CAD Technician III	\$150.00
GIS Analyst I	\$150.00
GIS Analyst II	\$160.00
Senior GIS Analyst	\$210.00
GIS Technician I	\$125.00
GIS Technician II	\$145.00
Data Manager	\$165.00
Senior Data Manager	\$185.00



## GEOTECHNICAL LABORATORY TESTING

METHOD	\$/TEST	METHOD	\$/TEST
<b><u>Classification &amp; Index Properties</u></b>		<b><u>Soil Chemistry &amp; Corrosivity cont'd</u></b>	
Photograph of sample	15	Sulfate content - by ion chromatograph (CTM 417 Part 2)	85
Moisture content (ASTM D2216)	25	Sulfate screen (Hach®)	35
Moisture & density (ASTM D2937) ring samples	37	Chloride content (AASHTO T291/CTM 422)	75
Moisture & density (ASTM D2937) Shelby tube or cutting	45	pH + minimum resistivity (CTM 643)	140
Atterberg limits 3 points (ASTM D4318)	160	Chloride content – by ion chromatograph (AASHTO T291/CTM 422)	85
- Single point, non-plastic	90	Corrosion suite: minimum resistivity, sulfate, chloride, pH (CTM 643)	285
- Atterberg limits (organic ASTM D2487 / D4318)	195	Organic matter content (ASTM D2974)	70
- Visual classification as non-plastic (ASTM D2488) Particle size:	15	<b><u>Consolidation &amp; Expansion/Swell Tests</u></b>	
- Sieve only 1½ inch to #200 (AASHTO T27/ASTM C136/ASTM D6913/CTM 202)	155	Consolidation (ASTM D2435):	210
- Large sieve 6 inch to #200 (AASHTO T27/ASTM C136/ASTM D6913/CTM 202)	195	Each additional time curve.	50
- Hydrometer only (ASTM D7928)	120	Each additional load/unload w/o time reading	45
- Sieve + hydrometer ≤3 inch sieve, (ASTM D7928)	200	Expansion Index (ASTM D4829)	140
- Percent passing #200 sieve, wash only (ASTM D1140)	75	Relative compaction of untreated/treated soils/aggregates (CTM 216)	270
Specific gravity and absorption of fine aggregate (AASHTO T84/ASTM C128/ASTM D854/CTM 207)	140	Relative density 0.1 ft mold (ASTM D4253, D4254)	250
Specific gravity and absorption of coarse aggregate (AASHTO T85/ASTM C127/CTM 206)	110	California Bearing Ratio (ASTM D1883) - 3 point	535
Total porosity - on Shelby tube sample (calculated)	180	California Bearing Ratio (ASTM D1883) - 1 point	200
Total porosity - on other sample (calculated)	165	R-Value untreated soils/aggregates (AASHTO T190/ASTM D2844/CTM 301)	335
Shrinkage limits wax method (ASTM D4943)	135	R-Value lime or cement treated soils/aggregates (AASHTO T190/ASTM D2844/CTM 301)	365
Pinhole dispersion (ASTM D4647)	225	Swell collapse Method A up to 10 load/unloads w/o time curves (ASTM D4546-A)	310
Total porosity - on other sample (calculated)	165	Single load swell/collapse - Method B (ASTM D4546-B, seat, load & inundate only)	115
Dispersive characteristics (double hydrometer ASTM D4221)	215	<b><u>Triaxial Tests</u></b>	
As-received moisture & density (chunk/carved sample)	65	Unconfined compression strength of cohesive soil (with stress/strain plot, ASTM D2166)	145
Sand Equivalent (AASHTO T176/ASTM D2419/CTM 217)	115	Unconsolidated undrained triaxial compression test on cohesive soils(UU, ASTM D2850, USACE Q test, per confining stress)	185
Sieve + hydrometer ≤3-inch sieve, (ASTM D7928)	200	Consolidated undrained triaxial compression test for cohesive soils, (CU, ASTM D4767, USACE R-bar test) with back pressure saturation & pore water pressure measurement (per confining stress)	400
<b><u>Shear Strength</u></b>		Consolidated drained triaxial compression test (CD, USACE S), with volume change measurement. Price per soil type below EM 1110-21906(X):	
Pocket penetrometer	20	- Sand or silty sand soils (per confining stress)	400
Direct shear (ASTM D3080, mod., 3 points):		- Silt or clayey sand soils (per confining stress)	535
- Consolidated undrained - 0.05 inch/min (CU)	320	- Clay soils (per confining stress)	755
- Consolidated drained - <0.05 inch/min (CD)	385	- Three-stage triaxial (sand or silty sand soils)	700
Residual shear EM 1110-2-1906-IXA (price per each additional pass after shear)	55	- Three-stage triaxial (silt or clayey sand soils)	935
Remolding or hand trimming of specimens (3 points)	95	- Three-stage triaxial (clay soils)	1,320
Oriented or block hand trimming (per hour)	70	- Remolding of test specimens	70
Single point shear	115	<b><u>Hydraulic Conductivity Tests</u></b>	
Torsional shear (ASTM D6467 / ASTM D7608)	880	Triaxial permeability in flexible-wall permeameter with backpressure saturation at one effective stress (EPA 9100/ASTM D5084, falling head Method C):	335
<b><u>Compaction &amp; Pavement Subgrade Tests</u></b>		Each additional effective stress	130
Standard Proctor compaction, 4 points (ASTM D698)		Hand trimming of soil samples for horizontal K	65
- 4-inch diameter mold (Methods A & B)	170	Remolding of test specimens	70
- 6-inch diameter mold (Method C)	230	Permeability of granular soils (ASTM D2434)	145
Modified Proctor compaction 4 points (ASTM D1557):		<b><u>Soil-Cement</u></b>	
- 4-inch diameter mold Methods A & B	235	Moisture-density curve for soil-cement mixtures (ASTM D558)	260
- 6-inch diameter mold Method C	265	Wet-dry durability of soil-cement mixtures (ASTM D559) <sup>1</sup>	1,290
Check point (per point)	70	Compressive strength of molded soil-cement cylinder (ASTM D1633) <sup>1</sup>	65
Relative compaction of untreated/treated soils/aggregates (CTM 216)	270	Soil-cement remolded specimen (for shear strength, consolidation, etc.) <sup>1</sup>	250
Relative density 0.1 ft mold (ASTM D4253, D4254)	250	<sup>1</sup> Compaction (ASTM D558 maximum density) should also be performed – not included in above price	
California Bearing Ratio (ASTM D1883) - 3 point	535		
California Bearing Ratio (ASTM D1883) - 1 point	200		
R-Value untreated soils/aggregates (AASHTO T190/ASTM D2844/CTM 301)	335		
R-Value lime or cement treated soils/aggregates (AASHTO T190/ASTM D2844/CTM 301)	365		
<b><u>Soil Chemistry &amp; Corrosivity</u></b>			
pH Method A (ASTM D4972 or CTM 643)	50		
Electrical resistivity – single point – as received moisture	50		
Minimum resistivity 3 moisture content points (ASTM G187/CTM 643)	95		
pH + minimum resistivity (CTM 643)	140		
Sulfate content - gravimetric (CTM 417 B Part 2)	75		



## CONSTRUCTION MATERIALS LABORATORY TESTING

METHOD	\$/TEST	METHOD	\$/TEST
<b>Concrete Strength Characteristics</b>		<b>Aggregate Properties cont'd</b>	
Concrete cylinders compression (ASTM C39) (6" x 12" and 4" x 8")	40	Flat & elongated particles in coarse aggregate (ASTM D4791/CTM 235)	230
Compression, concrete or masonry cores (testing only) ≤6 inch (ASTM C42)	45	Cleanliness value of coarse aggregate (CTM 227)	225
Trimming concrete cores (per core)	25	Soundness, magnesium (AASHTO T104/ASTM C88/CTM 214)	240
Flexural strength of concrete (simple beam-3rd pt. loading, ASTM C78/CTM 523)	90	Soundness, sodium (AASHTO T104/ASTM C88/CTM 214)	695
Flexural strength of concrete (simple beam- center pt. loading, ASTM C293/CTM 523)	90	<b>Masonry</b>	
Non shrink grout cubes (2 inch, ASTM C109/C1107)	30	Mortar cylinders 2" x 4" (ASTM C780)	35
Drying shrinkage - four readings, up to 90 days, 3 bars (ASTM C157)	430	Grout prisms 3" x 6" (ASTM C1019).	35
Length of concrete cores (CTM 531)	45	Masonry cores compression, ≤6" diameter - testing only (ASTM C42)	45
<b>Hot Mix Asphalt (HMA)</b>		Masonry core shear testing (Title 24)	85
Resistance of compacted HMA to moisture-induced damage (AASHTO T283/CTM 371)	2,250	Veneer bond strength, cost for each - 5 required (ASTM C482)	60
Hamburg Wheel, 4 briquettes (modified) (AASHTO T324)	965	CMU compression to size 8" x 8" x 16" - 3 required (ASTM C140)	60
Superpave gyratory compaction (AASHTO T312/ ASTM D6925)	375	CMU moisture content, absorption & unit weight - 6 required (ASTM C140)	55
Extraction by ignition oven, percent asphalt (AASHTO T308/ASTM D6307/CTM 382)	160	CMU linear drying shrinkage (ASTM C426)	190
Ignition oven correction/correlation values (AASHTO T308/ASTM D6307/CTM 382)	1,445	CMU grouted prisms compression test ≤8" x 8" x 16" (ASTM C1314)	215
Extraction by centrifuge, percent asphalt (ASTM D2172)	160	CMU grouted prisms compression test > 8" x 8" x 16" (ASTM C1314)	270
Gradation of extracted aggregate (AASHTO T30/ ASTM D5444/CTM 202)	145	<b>Fasteners/Bolts/Rods</b>	
Stabilometer, S-Value (ASTM D1560/CTM 366)	285	F1554 Bolts, tensile test, ≤ up to 1-1/4" diameter, plain (ASTM A370)	110
Bituminous mixture preparation (AASHTO R30/ CTM 304)	85	F1554 Bolts, tensile test, ≤ up to 1-1/4" diameter, galvanized (ASTM A370)	130
Moisture content of HMA (AASHTO T329/ASTM D6037 /CTM 370)	65	F3125 GR A307, A325 Bolts, tensile test, ≤ up to 1-1/4" diameter, plain (ASTM A370)	70
Bulk specific gravity of compacted HMA, molded specimen or cores, uncoated (AASHTO T166/ ASTM D2726/CTM 308)	55	F3125 GR A307, A325 Bolts, tensile test, ≤ up to 1-1/4" diameter, galvanized (ASTM A370)	80
Bulk specific gravity of compacted HMA, molded specimen or cores, paraffin-coated (AASHTO T275/ ASTM D1188/CTM 308)	60	A490 Bolts, tensile test, ≤ up to 1-1/4" diameter, plain (ASTM A370)	70
Maximum density - Hveem (CTM 308)	215	A490 Bolts, tensile test, ≤ up to 1-1/4" diameter, galvanized (ASTM A370)	80
Theoretical maximum density and specific gravity of HMA (AASHTO T209/ASTM D2041/CTM 309)	140	A593 Bolts, tensile test, ≤ up to 1-1/4" diameter, stainless steel (ASTM A370)	70
Thickness or height of compacted bituminous paving Mixture specimens (ASTM D3549)	45	<b>Reinforcing Steel and Prestressing Strands</b>	
Wet track abrasion of slurry seal (ASTM D3910)	160	Rebar bend test, up to No. 11 (ASTM A370)	70
Rubberized asphalt (add to above rates)	+25%	Rebar bend test, ≥ No. 14 & over (ASTM A370)	215
<b>Brick</b>		Resistance butt-welded hoops/bars, tensile test, ≤ up to No. 10 (CTM 670)	70
Compression - cost for each, 5 required (ASTM C67)	55	Resistance butt-welded hoops/bars, tensile test, ≥ No. 11 & over (CTM 670)	90
Absorption - cost for each, 5 required (ASTM C67)	55	Mechanical rebar splice, tensile test, ≤ up to No. 11 (CTM 670)	70
<b>Aggregate Properties</b>		Mechanical rebar splice, slip test, ≤ up to No. 11 (CTM 670)	45
Bulk density and voids in aggregates (AASHTO T19/ ASTM C29/ CTM 212)	55	Mechanical rebar splice, tensile test, ≥ No. 14 & over (CTM 670)	215
Organic impurities in fine aggregate sand (AASHTO T21/ ASTM C40/CTM 213)	65	Mechanical rebar splice, slip test, ≥ No. 14 & over (CTM 670)	215
LA Rattler-smaller coarse aggregate <1.5" (AASHTO /ASTM C131/ CTM 211)	215	Headed rebar splice, tensile test, ≤ up to No. 11 (CTM 670)	70
LA Rattler-larger coarse aggregate 1-3" (AASHTO T96/ ASTM C535/CTM 211)	270	Headed rebar splice, tensile test, ≥ No. 14 & over (CTM 670)	215
Apparent specific gravity of fine aggregate (AASHTO T84/ ASTM C128/CTM 208)	140	Epoxy coated rebar/dowel continuity (Holiday) (ASTM A775/A934)	70
Specific gravity and absorption of coarse aggregate (ASTM C127/CTM 206) >#4 retained	110	Epoxy coated rebar flexibility/bend test, up to No. 11 (ASTM A775/A934)	50
Clay lumps, friable particles (AASHTO T112/ASTM C142)	190	Prestressing wire, tension (ASTM A416)	190
Durability Index (AASHTO T210/ASTM D3744/ CTM 229)	215	Sample preparation (cutting)	55
Moisture content of aggregates by oven drying (AASHTO T255/ASTM C566/CTM 226)	45	Epoxy coated rebar/dowel film thickness (coating) test (ASTM A775/ A934)	50
Uncompacted void content of fine aggregate (AASHTO T304/ ASTM C1252/ CTM 234)	140		
Percent of crushed particles (AASHTO T335/ ASTM D5821/CTM 205)	145		





## CONSTRUCTION MATERIALS LABORATORY TESTING

METHOD	\$/TEST	METHOD	\$/TEST
<b><u>Streetlights/Signals</u></b>		<b><u>Bearing Pads/Plates and Joint Seal</u></b>	
LED Luminaires / Signal Modules / Countdown	By	Elastomeric bearing pads (Caltrans SS 51-3)	1,060
Pedestrian Signal Face Modules (Caltrans RSS 86)	Quote	Elastomeric bearing pad with hardness and compression tests (Caltrans SS 51-3)	1,315
<b><u>Spray Applied Fireproofing</u></b>		Type A Joint Seals (Caltrans SS 51-2)	1,735
Unit weight (density, ASTM E605)	65	Type B Joint Seals (Caltrans SS 51-2)	1,640
<b><u>Sample Transport</u></b>		Bearing plates (A536)	770
Pick-up and delivery (weekdays, per trip, <50 mile radius from our office)	110		

### Notes

- Earth Material Samples:** Quoted testing unit rates are for soil and/or rock (earth) samples free of hazardous materials. Additional costs will accrue beyond these standard testing unit rates for handling, testing and/or disposing of soil and/or rock containing hazardous materials. Hazardous materials will be returned to the site or the site owner's designated representative at additional cost not included in listed unit rates. Standard turn-around time for geotechnical-laboratory test results is 10 working days. Samples will be stored for 2 months following completion of assigned tests, after which they will be discarded. Prior documented notification is required if samples need to be stored for a longer time. A monthly storage fee of \$15 per bag and \$6 per sleeve or tube will be applied. Quoted unit rates are only for earth materials sampled in California. There may be additional cost for handling imported samples.
- Construction Material Samples:** After all designated breaks for a given sample set meet specified compressive at design age or other client-designated strength, all "hold" cylinders or specimens will be automatically disposed of, unless specified in writing prior to the 28-day break. Unless specifically requested otherwise, all other construction materials will be disposed of after completion of testing and reporting.

## EQUIPMENT LISTING

CLASSIFICATION	\$/UNIT	CLASSIFICATION	\$/UNIT
1/4 inch Grab plates	5/ each	Global Positioning System/Laser Range Finder	80/day
1/4 inch Tubing (bonded)	0.60/foot	Hand auger set	90/day
1/4 inch Tubing (single)	0.40/foot	HDPE safety fence (≤100 feet)	40/roll
3/8 inch Tubing, clear vinyl	0.60/foot	Horiba U-51 water quality meter	135/day
4-Gas meter (RKI Eagle or similar)/GEM 2000	140/day	Light tower (towable vertical mast)	150/day
Air flow meter and purge pump (200 cc/min)	55/day	Magnehelic gauge	15/day
Box of 24 soil drive-sample rings	130/box	Manometer	25/day
Brass sample tubes	11/each	Mileage (will adjust with IRS published rate)	0.70/mile
Caution tape (1000-foot roll)	22/each	Moisture test kit (excludes labor to perform test, ASTM E1907)	65/test
Combination lock or padlock	15/each	Nuclear moisture and density gauge	88/day
Compressed air tank and regulator	55/day	Electrical moisture and density gauge	88/Day
Concrete coring machine (≤6-inch-dia)	160/day	Pachometer	50/day
Consumables (gloves, rope, soap, tape, etc.)	40/day	Particulate Monitor	135/day
Core sample boxes	30/each	pH/Conductivity/Temperature meter	60/day
Crack monitor Two-Dimensional	30/each	Photo-Ionization Detector (PID)	150/day
Crack monitor Three-Dimensional	40/each	Pump, Typhoon 2 or 4 stage	55/day
Cutoff saws, reciprocating, electric (Sawzall®)	80/day	QED bladder pump w/QED control box	175/day
D-Meter Walking Floor Profiler	110/day	Quire fee – Phase I only	250/each
Disposable bailers	25/each	Resistivity field meter and pins	200/day
Disposable bladders	20/each	Slip / threaded cap, 2-inch or 4-inch diameter,	20/each
Dissolved oxygen meter	75/day	PVC Schedule 40	
DOT 55-gallon containment drum with lid	85/drum	Slope inclinometer	250/day
Double-ring infiltrometer	135/day	Soil sampling T-handle (Encore)	10/day
Dual-stage interface probe	85/day	Soil sampling tripod	40/day
Dynamic Cone Penetrometer	430/day	Speedy (R) moisture tester	10/day
Generator, portable gasoline fueled, 3,500 watts	90/day	Vapor sampling box	65/day
Stainless steel bailer	60/day	Vehicle usage (carrying equipment)	16/hour
Submersible pump with controller	180/day	VelociCalc	40/day
Submersible pump/transfer pump, 10-25 gpm	65/day	Visqueen (20 x 100 feet)	130/roll
Support service truck usage (well installation)	250/day	Water level indicator (electronic well sounder)	100/day
Survey/fence stakes	10/each	<300 feet deep well	
Tedlar® bags	25/each	ZIPLEVEL®.	40/day
Traffic cones (≤25)/barricades (single lane)	55/day		
Turbidity meter	80/day		
Tyvek® suit (each)	25/each		

*Other specialized geotechnical and environmental testing and monitoring equipment are available, and priced per site*

**MASTER AGREEMENT FOR SURVEYING SERVICES  
RIGHT-OF-WAY ENGINEERING SERVICES, INC.**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of June, 2025, but effective July 1, 2025, by and between the Carlsbad Municipal Water District, a Public Agency organized under the Municipal Water Act of 1911, and a Subsidiary District of the City of Carlsbad, California ("CMWD"), and Right-of-Way Engineering Services, Inc., a California corporation ("Contractor").

**RECITALS**

- A. CMWD requires the professional services of a consultant that is experienced in surveying.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to surveying services.
- D. Contractor has submitted a proposal to CMWD responsive to Request for Qualifications RFQ25-3437CA and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, CMWD and Contractor agree as follows:

**1. SCOPE OF WORK**

CMWD retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A", which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective for a period of three (3) years from July 1, 2025, through June 30, 2028. The Executive Manager may amend the Agreement to extend it for two (2) additional one (1) year(s) periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, CMWD needs, and appropriation of funds by the CMWD Board of Directors. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by CMWD and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the Executive Manager or General Manager as authorized by the Executive Manager. The Executive Manager or General Manager will give allowance for documented and substantiated unforeseeable and unavoidable delays not caused by a lack



of foresight on the part of Contractor, or delays caused by CMWD inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed five hundred thousand dollars (\$500,000). Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, CMWD shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for CMWD, the Executive Manager or General Manager, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

If CMWD elects to extend the term of the Master Services Agreement, adjustments to the rate schedule may be permitted. Upon receipt of a written request from the Contractor, CMWD may consider approving a rate schedule increase. Rate schedule increases will be considered for each anniversary of the Agreement effective date after the initial three-year term. An increase to the rate schedule will be calculated based on the proceeding 12-month percentage change in the Consumer Price Index, San Diego Area, for All Urban Customers (CPI-U), as reported by the Bureau of Labor Statistics or 5.0%, whichever is lower. If the CPI-U is a negative number, then the rate schedule will not be adjusted for that year. The Contractor must submit a request and justification to increase the rate schedule at least sixty days prior to the anniversary of the effective date, assuming CMWD opt to extend the Master Services Agreement. The justification accompanying the written request should detail the rationale for the requested adjustment, and the requested adjustment amount, supported by relevant documentation (e.g., CPI-U or 5.0%, whichever is less). Approval of rate schedule increase by CMWD must be documented in an amendment to the Agreement.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in

the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

#### **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize the Owner's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. The Contractor is required to create a free web-based Procore user account(s) and utilize web-based training / tutorials (as needed) to become familiar with the system. Unless the Engineer approves otherwise, the Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. The Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of the Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that the Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, RFIs, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

#### **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of CMWD. Contractor will be under the control of CMWD only as to the result to be accomplished, but will consult with CMWD as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of CMWD for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. CMWD will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. CMWD will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify CMWD and the City of Carlsbad within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which CMWD may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At CMWD's election, CMWD may deduct the indemnification amount from any balance owing to Contractor.

#### **9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

**10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of CMWD. If Contractor subcontracts any of the Services, Contractor will be fully responsible to CMWD for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and CMWD. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by CMWD.

**11. OTHER CONTRACTORS**

CMWD reserves the right to employ other Contractors in connection with the Services.

**12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by CMWD), indemnify and hold harmless CMWD and the City of Carlsbad and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense CMWD or the City of Carlsbad incurs or makes to or on behalf of an injured employee under CMWD's self-administered workers' compensation is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

**13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current Best's Key Rating of not less than "A-VII"; **OR** with a surplus line insurer on the State of California's List of

Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

13.1 Coverages and Limits. Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to CMWD's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 CMWD will be named as an additional insured on General Liability which shall provide primary coverage to CMWD.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to CMWD sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to CMWD's execution of this

Agreement, Contractor will furnish certificates of insurance and endorsements to CMWD.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then CMWD will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by CMWD to obtain or maintain insurance and CMWD may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. CMWD reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

14. **BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

15. **ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of CMWD during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

16. **OWNERSHIP OF DOCUMENTS**

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of CMWD. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to CMWD. Contractor will have the right to make one (1) copy of the work product for Contractor’s records.

17. **COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in CMWD and Contractor relinquishes all claims to the copyrights in favor of CMWD.

18. **NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of CMWD and on behalf of Contractor under this Agreement.

For CMWD:

Name	Eleida Felix Yackel
Title	Senior Contract Administrator
Dept	Public Works/ Contract Admin
	<u>CARLSBAD MUNICIPAL WATER DISTRICT</u>
Address	1635 Faraday Ave.
	Carlsbad, CA 92008
Phone	442-339-2767

For Contractor:

Name	<u>Michael Schlumpberger</u>
Title	<u>President</u>
Address	<u>615 South Tremont Street</u>
	<u>Oceanside CA 92054</u>
Phone	<u>(760) 637-2700</u>
Email	<u>mikes@roweng.net</u>

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

**19. GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or CMWD will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, CMWD may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If CMWD decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, CMWD may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by CMWD and all work in progress to CMWD address contained in this Agreement. CMWD will make a determination of fact based upon the work product delivered to CMWD and of the percentage of work that Contractor has performed which is usable and of worth to CMWD in having the Agreement

completed. Based upon that finding CMWD will determine the final payment of the Agreement.

CMWD may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to CMWD. In the event of termination of this Agreement by either party and upon request of CMWD, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to CMWD. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. CMWD will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, CMWD will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any agreement claim submitted to CMWD must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to CMWD, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If CMWD seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon CMWD and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of CMWD, which shall not be unreasonably withheld.

**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the CMWD and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract, and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}



CONTRACTOR  
RIGHT-OF-WAY ENGINEERING SERVICES,  
INC., a California corporation

CARLSBAD MUNICIPAL WATER DISTRICT, a  
Public Agency organized under the  
Municipal Water Act of 1911, and a  
Subsidiary District of the City of Carlsbad

By: Michael Schlumpberger

(sign here)

Michael Louis Schlumpberger,  
President, Secretary and CFO

(print name/title)

By:

(sign here)

(print name/title)

By:

Keith Blackburn, President

ATTEST:

SHERRY FREISINGER, Secretary

By:

Faviola Medina,  
Director of Constituent & Clerk Services

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

**Group A**  
Chairman,  
President, **or**  
Vice-President

**Group B**  
Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, General Counsel

BY: Cindie K. McMahon

**EXHIBIT A****SCOPE OF SERVICES AND FEES**

Perform a variety of tasks related to surveying, as outlined in the individual Project Task Descriptions and Fee Allotments (PTD&FA), including but not limited to the following:

- A. Aerial Surveying/ Photogrammetric/ Drone Surveying Services.
- B. Geographic Information Systems (GIS).
- C. Property Acquisition Plats and Legal.
- D. Utility Mapping.
- E. Drone site documentation.

Requests for work not listed above must be contracted under separate agreement.

**Discipline 12 - Surveying**  
**Right-of-Way Engineering Services, Inc.**  
**Fee Schedule**

Prices valid through Term of Agreement

<b><u>STAFF</u></b>			
	<b><u>NAME</u></b>	<b><u>TITLE</u></b>	<b><u>HOURLY RATE</u></b>
1	Michael Schlumpberger, PLS	Supervising Land Surveyor	\$170.00
2	Joshua Tatman, PLS	Senior Land Surveyor	\$150.00
3	Joshua Tatman, PLS	CAD Draftsman	\$140.00
4	Michael Schlumpberger, PLS	Land Surveyor, Field	\$250.00
5	Robert Gates	Party Chief, Field	\$170.00
6	International Operating Engineers - Local 12 Journeymen	Chainman, Field	\$130.00
7			

<b><u>SUB-CONSULTANTS</u></b>			
	<b><u>NAME / FIRM</u></b>	<b><u>TITLE</u></b>	<b><u>HOURLY RATE</u></b>
1	Photogeodetic	Photogrammatrist/compiler	\$120.00
2			
3			
4			

<b><u>EXPENSES</u></b>			
	<b><u>DESCRIPTION</u></b>	<b><u>COST</u></b>	<b><u>% MARKUP</u></b>
1	Photogrametric Services	Project Based	5%
2	Traffic Control	Project Based	5%
3			

**MASTER AGREEMENT FOR SURVEYING SERVICES  
O'DAY CONSULTANTS, INC.**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of June, 2025, but effective July 1, 2025, by and between the Carlsbad Municipal Water District, a Public Agency organized under the Municipal Water Act of 1911, and a Subsidiary District of the City of Carlsbad, California ("CMWD"), and O'Day Consultants, Inc., a California corporation ("Contractor").

**RECITALS**

- A. CMWD requires the professional services of a consultant that is experienced in surveying.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to surveying services.
- D. Contractor has submitted a proposal to CMWD responsive to Request for Qualifications RFQ25-3437CA and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, CMWD and Contractor agree as follows:

**1. SCOPE OF WORK**

CMWD retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A", which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective for a period of three (3) years from July 1, 2025, through June 30, 2028. The Executive Manager may amend the Agreement to extend it for two (2) additional one (1) year(s) periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, CMWD needs, and appropriation of funds by the CMWD Board of Directors. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by CMWD and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the Executive Manager or General Manager as authorized by the Executive Manager. The Executive Manager or General Manager will give allowance for documented and substantiated unforeseeable and unavoidable delays not caused by a lack

of foresight on the part of Contractor, or delays caused by CMWD inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed five hundred thousand dollars (\$500,000). Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, CMWD shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for CMWD, the Executive Manager or General Manager, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

If CMWD elects to extend the term of the Master Services Agreement, adjustments to the rate schedule may be permitted. Upon receipt of a written request from the Contractor, CMWD may consider approving a rate schedule increase. Rate schedule increases will be considered for each anniversary of the Agreement effective date after the initial three-year term. An increase to the rate schedule will be calculated based on the proceeding 12-month percentage change in the Consumer Price Index, San Diego Area, for All Urban Customers (CPI-U), as reported by the Bureau of Labor Statistics or 5.0%, whichever is lower. If the CPI-U is a negative number, then the rate schedule will not be adjusted for that year. The Contractor must submit a request and justification to increase the rate schedule at least sixty days prior to the anniversary of the effective date, assuming CMWD opt to extend the Master Services Agreement. The justification accompanying the written request should detail the rationale for the requested adjustment, and the requested adjustment amount, supported by relevant documentation (e.g., CPI-U or 5.0%, whichever is less). Approval of rate schedule increase by CMWD must be documented in an amendment to the Agreement.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in

the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

#### **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize the Owner's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. The Contractor is required to create a free web-based Procore user account(s) and utilize web-based training / tutorials (as needed) to become familiar with the system. Unless the Engineer approves otherwise, the Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. The Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of the Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that the Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, RFIs, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

#### **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of CMWD. Contractor will be under the control of CMWD only as to the result to be accomplished, but will consult with CMWD as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of CMWD for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. CMWD will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. CMWD will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify CMWD and the City of Carlsbad within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which CMWD may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At CMWD's election, CMWD may deduct the indemnification amount from any balance owing to Contractor.

#### **9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

**10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of CMWD. If Contractor subcontracts any of the Services, Contractor will be fully responsible to CMWD for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and CMWD. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by CMWD.

**11. OTHER CONTRACTORS**

CMWD reserves the right to employ other Contractors in connection with the Services.

**12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by CMWD), indemnify and hold harmless CMWD and the City of Carlsbad and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense CMWD or the City of Carlsbad incurs or makes to or on behalf of an injured employee under CMWD's self-administered workers' compensation is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

**13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current Best's Key Rating of not less than "A-VII"; **OR** with a surplus line insurer on the State of California's List of

Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

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13.1.1 Commercial General Liability Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to CMWD's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 CMWD will be named as an additional insured on General Liability which shall provide primary coverage to CMWD.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to CMWD sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to CMWD's execution of this



Agreement, Contractor will furnish certificates of insurance and endorsements to CMWD.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then CMWD will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by CMWD to obtain or maintain insurance and CMWD may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. CMWD reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

#### 14. BUSINESS LICENSE

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

#### 15. ACCOUNTING RECORDS

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of CMWD during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

#### 16. OWNERSHIP OF DOCUMENTS

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of CMWD. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to CMWD. Contractor will have the right to make one (1) copy of the work product for Contractor's records.

#### 17. COPYRIGHTS

Contractor agrees that all copyrights that arise from the services will be vested in CMWD and Contractor relinquishes all claims to the copyrights in favor of CMWD.

#### 18. NOTICES

The name of the persons who are authorized to give written notice or to receive written notice on behalf of CMWD and on behalf of Contractor under this Agreement.

##### For CMWD:

Name	Eleida Felix Yackel
Title	Senior Contract Administrator
Dept	Public Works/ Contract Admin
	<u>CARLSBAD MUNICIPAL WATER DISTRICT</u>
Address	1635 Faraday Ave.
	Carlsbad, CA 92008
Phone	442-339-2767

##### For Contractor:

Name	<u>Keith Hansen</u>
Title	<u>Vice President</u>
Address	<u>1959 Palomar Oaks Way #130</u>
	<u>Carlsbad, CA 92011</u>
Phone	<u>760-931-7700 x203</u>
Email	<u>keithh@odayconsultants.com</u>

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

**19. GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or CMWD will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, CMWD may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If CMWD decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, CMWD may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by CMWD and all work in progress to CMWD address contained in this Agreement. CMWD will make a determination of fact based upon the work product delivered to CMWD and of the percentage of work that Contractor has performed which is usable and of worth to CMWD in having the Agreement

completed. Based upon that finding CMWD will determine the final payment of the Agreement.

CMWD may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to CMWD. In the event of termination of this Agreement by either party and upon request of CMWD, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to CMWD. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. CMWD will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, CMWD will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any agreement claim submitted to CMWD must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to CMWD, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If CMWD seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon CMWD and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of CMWD, which shall not be unreasonably withheld.

**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the CMWD and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract, and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}

CONTRACTOR  
O'DAY CONSULTANTS, INC., a California  
corporation

CARLSBAD MUNICIPAL WATER DISTRICT, a  
Public Agency organized under the  
Municipal Water Act of 1911, and a  
Subsidiary District of the City of Carlsbad

By: Keith Hansen, Vice President

(sign here)

Keith Hansen, Vice President

(print name/title)

By:

(sign here)

(print name/title)

By:

Keith Blackburn, President

ATTEST:

SHERRY FREISINGER, Secretary

By:

Faviola Medina,  
Director of Constituent & Clerk Services

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

**Group A**  
Chairman,  
President, **or**  
Vice-President

**Group B**  
Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, General Counsel

BY: Cindie K. McMahon

**EXHIBIT A****SCOPE OF SERVICES AND FEES**

Perform a variety of tasks related to surveying, as outlined in the individual Project Task Descriptions and Fee Allotments (PTD&FA), including but not limited to the following:

- A. Aerial Surveying/ Photogrammetric/ Drone Surveying Services.
- B. Geographic Information Systems (GIS).
- C. Property Acquisition Plats and Legal.
- D. Utility Mapping.
- E. Drone site documentation.

Requests for work not listed above must be contracted under separate agreement.



# **ATTACHMENT B –MASTER SERVICES AGREEMENT RATE SCHEDULE - page 1 of 2**

Prices valid through Term of Agreement

<b><u>STAFF</u></b>			
	<b><u>NAME/FIRM</u></b>	<b><u>TITLE</u></b>	<b><u>HOURLY RATE</u></b>
1.	Keith Hansen / O'Day	Contract Project Manager	\$255.00
2.	George O'Day / O'Day	Project Survey Manager / Licensed Surveyor	\$255.00
3.	Damon Becker/ O'Day	Project Survey Supervisor/ Party Chief	\$186.00
4.	Dylan Hibbard/O'Day	Design Engineer	\$179.00
5.	Dylan Hibbard/O'Day	AutoCad Technician	\$167.00
6.	Dylan Hibbard/O'Day	Construction Office Management / Document Control	\$97.00
7.	1 Man Survey Crew / Supervisor	Prevailing Wage Rate	\$221.00
8.	2 Man Survey Crew	Prevailing Wage Rate	\$395.00

<b><u>EXPENSES – O'DAY</u></b>		
<b><u>DESCRIPTION</u></b>	<b><u>COST</u></b>	<b><u>%MARKUP</u></b>
IN-HOUSE COPY EXPENSES	LISTED BELOW	0%

	<b><u>8.5x11</u></b>	<b><u>11x17</u></b>	<b><u>18x26</u></b>	<b><u>24x36</u></b>	<b><u>30x42</u></b>
<b>IN-HOUSE - Black &amp; White</b>	\$ 0.30	\$ 0.60	\$ 1.50	\$ 2.76	\$ 4.03
<b>IN-HOUSE - Color</b>	\$ 0.72	\$ 1.43	\$ 3.56	\$ 6.56	\$ 9.56
<b>SUBMITTAL - Black &amp; White</b>	\$ 0.75	\$ 1.50	\$ 3.74	\$ 6.90	\$ 10.07
<b>SUBMITTAL - Color</b>	\$ 2.25	\$ 4.49	\$ 11.22	\$ 20.70	\$ 30.19



**ATTACHMENT B –MASTER SERVICES AGREEMENT RATE SCHEDULE - page 2 of 2**  
 Prices valid through Term of Agreement

<b><u>SUB-CONSULTANTS</u></b>		
<b><u>NAME/FIRM</u></b>	<b><u>TITLE</u></b>	<b><u>HOURLY RATE</u></b>
Eric Phan / Aerotech	PM - Aerial Surveying/ Photogrammetry	\$140.49
Aerotech	Photogrammetrist (LiDAR Calibration & Classification)	\$103.79
Aerotech	Photogrammetrist (Analytical Triangulation)	\$99.86
Aerotech	Photogrammetrist (DTM Collection)	\$89.57
Aerotech	Photogrammetrist (Digital Ortho Generation)	\$88.19

<b><u>EXPENSES – AEROTECH</u></b>		
<b><u>DESCRIPTION</u></b>	<b><u>COST</u></b>	<b><u>%MARKUP</u></b>
Mobilization – Flight Time	\$825.00	0%
Aircraft - Camera	\$950.00	0%
Aircraft - LiDAR	\$1,450.00	0%
Mobile LiDAR	\$610.00	0%
Mileage	\$0.655	0%
Lodging	\$107.00	0%
Meals (Full Day)	\$49.00	0%
Meals (Travel Day)	\$36.75	0%



**MASTER AGREEMENT FOR  
UTILITIES HYDRAULIC MODELING SERVICES  
BURNS & MCDONNELL WESTERN ENTERPRISES, INC.**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of June, 2025, but effective July 1, 2025, by and between the Carlsbad Municipal Water District, a Public Agency organized under the Municipal Water Act of 1911, and a Subsidiary District of the City of Carlsbad, California ("CMWD"), and Burns & McDonnell Western Enterprises, Inc., a California corporation ("Contractor").

**RECITALS**

- A. CMWD requires the professional services of a consultant that is experienced in utilities hydraulic modeling services.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to utilities hydraulic modeling.
- D. Contractor has submitted a proposal to CMWD responsive to Request for Qualifications RFQ25-3437CA and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, CMWD and Contractor agree as follows:

**1. SCOPE OF WORK**

CMWD retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A", which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective for a period of three (3) years from July 1, 2025, through June 30, 2028. The Executive Manager may amend the Agreement to extend it for two (2) additional one (1) year(s) periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, CMWD needs, and appropriation of funds by the CMWD Board of Directors. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by CMWD and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may

Manager as authorized by the Executive Manager. The Executive Manager or General Manager will give allowance for documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight on the part of Contractor, or delays caused by CMWD inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed five hundred thousand dollars (\$500,000). Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, CMWD shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for CMWD, the Executive Manager or General Manager, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

If CMWD elects to extend the term of the Master Services Agreement, adjustments to the rate schedule may be permitted. Upon receipt of a written request from the Contractor, CMWD may consider approving a rate schedule increase. Rate schedule increases will be considered for each anniversary of the Agreement effective date after the initial three-year term. An increase to the rate schedule will be calculated based on the proceeding 12-month percentage change in the Consumer Price Index, San Diego Area, for All Urban Customers (CPI-U), as reported by the Bureau of Labor Statistics or 5.0%, whichever is lower. If the CPI-U is a negative number, then the rate schedule will not be adjusted for that year. The Contractor must submit a request and justification to increase the rate schedule at least sixty days prior to the anniversary of the effective date, assuming CMWD opt to extend the Master Services Agreement. The justification accompanying the written request should detail the rationale for the requested adjustment, and the requested adjustment amount, supported by relevant documentation (e.g., CPI-U or 5.0%, whichever is less). Approval of rate schedule increase by CMWD must be documented in an amendment to the Agreement.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California

Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

#### **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize the Owner's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. The Contractor is required to create a free web-based Procore user account(s) and utilize web-based training / tutorials (as needed) to become familiar with the system. Unless the Engineer approves otherwise, the Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. The Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of the Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that the Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, RFIs, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

#### **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of CMWD. Contractor will be under the control of CMWD only as to the result to be accomplished, but will consult with CMWD as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of CMWD for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. CMWD will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. CMWD will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify CMWD and the City of Carlsbad within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which CMWD may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At CMWD's election, CMWD may deduct the indemnification amount from any balance owing to Contractor.

**9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

**10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of CMWD. If Contractor subcontracts any of the Services, Contractor will be fully responsible to CMWD for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and CMWD. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by CMWD.

**11. OTHER CONTRACTORS**

CMWD reserves the right to employ other Contractors in connection with the Services.

**12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by CMWD), indemnify and hold harmless CMWD and the City of Carlsbad and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense CMWD or the City of Carlsbad incurs or makes to or on behalf of an injured employee under CMWD's self-administered workers' compensation is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

**13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current

Best's Key Rating of not less than "A-:VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

13.1 Coverages and Limits. Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to CMWD's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 CMWD will be named as an additional insured on General Liability which shall provide primary coverage to CMWD.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to CMWD sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to CMWD's execution of this

Agreement, Contractor will furnish certificates of insurance and endorsements to CMWD.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then CMWD will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by CMWD to obtain or maintain insurance and CMWD may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. CMWD reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

#### 14. BUSINESS LICENSE

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

#### 15. ACCOUNTING RECORDS

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of CMWD during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

#### 16. OWNERSHIP OF DOCUMENTS

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of CMWD. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to CMWD. Contractor will have the right to make one (1) copy of the work product for Contractor's records.

#### 17. COPYRIGHTS

Contractor agrees that all copyrights that arise from the services will be vested in CMWD and Contractor relinquishes all claims to the copyrights in favor of CMWD.

#### 18. NOTICES

The name of the persons who are authorized to give written notice or to receive written notice on behalf of CMWD and on behalf of Contractor under this Agreement.

##### For CMWD:

Name	Eleida Felix Yackel
Title	Senior Contract Administrator
Dept	Public Works/ Contract Admin
	CARLSBAD MUNICIPAL WATER DISTRICT
Address	1635 Faraday Ave.
	Carlsbad, CA 92008
Phone	442-339-2767

##### For Contractor:

Name	Stephen Kane
Title	Vice President
Address	145 South State College Blvd.
	Suite 600
Phone	714 264 7333
Email	SKANE@BURNISMCD.COM

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

**19. GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or CMWD will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, CMWD may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If CMWD decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, CMWD may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by CMWD and all work in progress to CMWD address contained in this Agreement. CMWD will make a determination of fact based upon the work product delivered to CMWD and of the percentage of work that Contractor has performed which is usable and of worth to CMWD in having the Agreement

completed. Based upon that finding CMWD will determine the final payment of the Agreement.

CMWD may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to CMWD. In the event of termination of this Agreement by either party and upon request of CMWD, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to CMWD. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. CMWD will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, CMWD will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any agreement claim submitted to CMWD must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to CMWD, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If CMWD seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon CMWD and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of CMWD, which shall not be unreasonably withheld.



**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the CMWD and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract, and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}

CONTRACTOR  
BURNS & MCDONNELL WESTERN  
ENTERPRISES, INC., a California  
corporation

CARLSBAD MUNICIPAL WATER DISTRICT, a  
Public Agency organized under the  
Municipal Water Act of 1911, and a  
Subsidiary District of the City of Carlsbad

By: Stephen J. Kane, Vice President  
(sign here)

By: \_\_\_\_\_  
Keith Blackburn, President

Stephen J. Kane, Vice President  
(print name/title)

ATTEST:  
SHERRY FREISINGER, Secretary

By: Jenna F. Pukach (CFO)  
(sign here)

By: \_\_\_\_\_  
Faviola Medina,  
Director of Constituent & Clerk Services

Jenna F. Pukach, CFO  
(print name/title)

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

**Group A**  
Chairman,  
President, **or**  
Vice-President

**Group B**  
Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, General Counsel

BY: Cindie K. McMahon

**EXHIBIT A****SCOPE OF SERVICES AND FEES**

Perform a variety of tasks related to utilities hydraulic modeling services, as outlined in the individual Project Task Descriptions and Fee Allotments (PTD&FA), including but not limited to the following:

- A. Water Supply and Demand Projections.
- B. Model Data Gap Analysis.
- C. Pressure Zone Analysis.
- D. Water Quality Modeling.
- E. Water System Shutdown Impact Analysis.
- F. Fire Flow Capacity Evaluation.
- G. Sewer Capacity Evaluation.
- H. Water/Recycled Water/Sewer Hydraulic Model Maintenance, Calibration and Support.

Requests for work not listed above must be contracted under separate agreement.

## ATTACHMENT B - MASTER SERVICES AGREEMENT RATE SCHEDULE

Burns &amp; McDonnell Western Enterprises, Inc.

Prices Valid Through Terms of Engagement

## STAFF

	NAME	TITLE	HOURLY RATE (\$/hr)
1	Michael Lehrburger	Associate Engineer - 3	322
2	Mitchell Bailey	Staff Engineer - 2	250
3	Beth O'Brien	Senior Engineer - 1	286
4	Audrey Keightley	Senior Engineer - 1	286
5	Ty Wall	Senior Engineer - 1	286
6	Sydney Hope	Staff Engineer - 2	250
7	Paul Ward	Senior Engineer - 2	308
8	Morgan Wetz	Staff Engineer - 1	228
9	David Ecklund	Senior Engineer - 1	286
10	Cory Kissner	Assistant Engineer - 3	201
11	Sasa Tomic	Associate Engineer - 3	322
12	Annie Cashon	Staff Engineer - 2	250
13	Brian Knadle	Associate Engineer - 1	318
14	Andrew Toth	Senior Engineer - 1	286
15	Kunal Raithatha	Senior Engineer - 1	286
16	Kirk Snell	Associate Engineer - 1	318
17	David Olsen	Senior Engineer - 2	308
18	Kyle LeBrasse	Senior Engineer - 1	286
19	Brett Pugh	Associate Engineer - 2	320
20	Nikole Rachelson	Associate Engineer - 1	318
21	Eimon Smith	Associate Engineer - 1	318
22	Mike Halbur	Associate Engineer - 3	322
23	Jason Schaefer	Associate Engineer - 3	322
24	Haley Morton	Staff Engineer - 2	250

## SUB CONSULTANTS

	NAME/FIRM	TITLE	HOURLY RATE (\$/hr)
1			
2			
3			

## EXPENSES

	DESCRIPTION	COST	% Markup
1	Mileage	At FDC Rate (Currently \$0.67/mile)	0
2	All Subcontractor Costs	At Cost	5
3	Printing and Reproduction	At Cost	0
4	Air Travel	At Cost - Coach Class	0
5	Hotel Lodging	At Cost	0
6	Equipment and Rentals	At Cost	5

**MASTER AGREEMENT FOR  
UTILITIES HYDRAULIC MODELING SERVICES  
KENNEDY/JENKS CONSULTANTS, INC.**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of June, 2025, but effective July 1, 2025, by and between the Carlsbad Municipal Water District, a Public Agency organized under the Municipal Water Act of 1911, and a Subsidiary District of the City of Carlsbad, California ("CMWD"), and Kennedy/ Jenks Consultants, Inc., a California corporation ("Contractor").

**RECITALS**

- A. CMWD requires the professional services of a consultant that is experienced in utilities hydraulic modeling services.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to utilities hydraulic modeling.
- D. Contractor has submitted a proposal to CMWD responsive to Request for Qualifications RFQ25-3437CA and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, CMWD and Contractor agree as follows:

**1. SCOPE OF WORK**

CMWD retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A", which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective for a period of three (3) years from July 1, 2025, through June 30, 2028. The Executive Manager may amend the Agreement to extend it for two (2) additional one (1) year(s) periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, CMWD needs, and appropriation of funds by the CMWD Board of Directors. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by CMWD and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the Executive Manager or General

Manager as authorized by the Executive Manager. The Executive Manager or General Manager will give allowance for documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight on the part of Contractor, or delays caused by CMWD inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed five hundred thousand dollars (\$500,000). Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, CMWD shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for CMWD, the Executive Manager or General Manager, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

If CMWD elects to extend the term of the Master Services Agreement, adjustments to the rate schedule may be permitted. Upon receipt of a written request from the Contractor, CMWD may consider approving a rate schedule increase. Rate schedule increases will be considered for each anniversary of the Agreement effective date after the initial three-year term. An increase to the rate schedule will be calculated based on the proceeding 12-month percentage change in the Consumer Price Index, San Diego Area, for All Urban Customers (CPI-U), as reported by the Bureau of Labor Statistics or 5.0%, whichever is lower. If the CPI-U is a negative number, then the rate schedule will not be adjusted for that year. The Contractor must submit a request and justification to increase the rate schedule at least sixty days prior to the anniversary of the effective date, assuming CMWD opt to extend the Master Services Agreement. The justification accompanying the written request should detail the rationale for the requested adjustment, and the requested adjustment amount, supported by relevant documentation (e.g., CPI-U or 5.0%, whichever is less). Approval of rate schedule increase by CMWD must be documented in an amendment to the Agreement.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California

Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize the Owner's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. The Contractor is required to create a free web-based Procore user account(s) and utilize web-based training / tutorials (as needed) to become familiar with the system. Unless the Engineer approves otherwise, the Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. The Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of the Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that the Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, RFIs, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

## **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of CMWD. Contractor will be under the control of CMWD only as to the result to be accomplished, but will consult with CMWD as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of CMWD for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. CMWD will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. CMWD will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify CMWD and the City of Carlsbad within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which CMWD may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At CMWD's election, CMWD may deduct the indemnification amount from any balance owing to Contractor.

**9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

**10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of CMWD. If Contractor subcontracts any of the Services, Contractor will be fully responsible to CMWD for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and CMWD. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by CMWD.

**11. OTHER CONTRACTORS**

CMWD reserves the right to employ other Contractors in connection with the Services.

**12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by CMWD), indemnify and hold harmless CMWD and the City of Carlsbad and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense CMWD or the City of Carlsbad incurs or makes to or on behalf of an injured employee under CMWD's self-administered workers' compensation is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

**13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current



Best's Key Rating of not less than "A-:VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

13.1 Coverages and Limits. Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to CMWD's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 CMWD will be named as an additional insured on General Liability which shall provide primary coverage to CMWD.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to CMWD sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to CMWD's execution of this

Agreement, Contractor will furnish certificates of insurance and endorsements to CMWD.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then CMWD will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by CMWD to obtain or maintain insurance and CMWD may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. CMWD reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

14. **BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

15. **ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of CMWD during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

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17. **COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in CMWD and Contractor relinquishes all claims to the copyrights in favor of CMWD.

18. **NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of CMWD and on behalf of Contractor under this Agreement.

For CMWD:

Name	Eleida Felix Yackel
Title	Senior Contract Administrator
Dept	Public Works/ Contract Admin
	<u>CARLSBAD MUNICIPAL WATER DISTRICT</u>
Address	1635 Faraday Ave.
	Carlsbad, CA 92008
Phone	442-339-2767

For Contractor:

Name	<u>Paul Chau</u>
Title	<u>Vice President</u>
Address	<u>35 N. Lake Ave. Ste. 550</u>
	<u>Pasadena, CA 91101</u>
Phone	<u>626-568-4311</u>
Email	<u>paulchau@kennedyjenks.com</u>

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

**19. GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or CMWD will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, CMWD may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If CMWD decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, CMWD may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by CMWD and all work in progress to CMWD address contained in this Agreement. CMWD will make a determination of fact based upon the work product delivered to CMWD and of the percentage of work that Contractor has performed which is usable and of worth to CMWD in having the Agreement

completed. Based upon that finding CMWD will determine the final payment of the Agreement.

CMWD may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to CMWD. In the event of termination of this Agreement by either party and upon request of CMWD, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to CMWD. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. CMWD will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, CMWD will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any agreement claim submitted to CMWD must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to CMWD, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If CMWD seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon CMWD and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of CMWD, which shall not be unreasonably withheld.

**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the CMWD and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract, and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}

CONTRACTOR  
KENNEDY/JENKS CONSULTANTS, INC., a  
California corporation

CARLSBAD MUNICIPAL WATER DISTRICT, a  
Public Agency organized under the  
Municipal Water Act of 1911, and a  
Subsidiary District of the City of Carlsbad

By:

*Paul Chau*

(sign here)

Paul Chau, Vice President

(print name/title)

By:

(sign here)

(print name/title)

By:

Keith Blackburn, President

ATTEST:

SHERRY FREISINGER, Secretary

By:

Faviola Medina,  
Director of Constituent & Clerk Services

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

**Group A**

Chairman,  
President, **or**  
Vice-President

**Group B**

Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, General Counsel

BY:

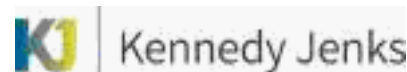
*Cindie K. McMahon*

**EXHIBIT A****SCOPE OF SERVICES AND FEES**

Perform a variety of tasks related to utilities hydraulic modeling services, as outlined in the individual Project Task Descriptions and Fee Allotments (PTD&FA), including but not limited to the following:

- A. Water Supply and Demand Projections.
- B. Model Data Gap Analysis.
- C. Pressure Zone Analysis.
- D. Water Quality Modeling.
- E. Water System Shutdown Impact Analysis.
- F. Fire Flow Capacity Evaluation.
- G. Sewer Capacity Evaluation.
- H. Water/Recycled Water/Sewer Hydraulic Model Maintenance, Calibration and Support.

Requests for work not listed above must be contracted under separate agreement.



**Client/Address:** City of Carlsbad  
1635 Faraday Avenue  
Carlsbad, CA 92008

**Contract/Proposal:** Master Services Agreement for Consultants (RFQ25-3437CA)

## Custom Schedule of Charges

**Date:** December 31, 2024

### PERSONNEL COMPENSATION

Classification	Hourly Rate
Engineer-Scientist-Specialist 1 .....	\$160
Engineer-Scientist-Specialist 2 .....	\$200
Engineer-Scientist-Specialist 3 .....	\$225
Engineer-Scientist-Specialist 4 .....	\$245
Engineer-Scientist-Specialist 5 .....	\$265
Engineer-Scientist-Specialist 6 .....	\$290
Engineer-Scientist-Specialist 7 .....	\$320
Engineer-Scientist-Specialist 8 .....	\$340
Engineer-Scientist-Specialist 9 .....	\$355
Senior CAD-Designer .....	\$210
CAD-Designer .....	\$191
Senior CAD-Technician .....	\$175
CAD-Technician .....	\$155
Project Assistant .....	\$155
Administrative Assistant .....	\$140
Aide.....	\$111

### Direct Expenses

Reimbursement for direct expenses, as listed below, incurred in connection with the work, will be at cost plus ten percent for items such as:

- a. Maps, photographs, 3rd party reproductions, 3rd party printing, equipment rental, and special supplies related to the work.
- b. Consultants, soils engineers, surveyors, contractors, and other outside services.
- c. Rented vehicles, local public transportation and taxis, travel and subsistence.
- d. Project specific telecommunications and delivery charges.
- e. Special fees, insurance, permits, and licenses applicable to the work.
- f. Outside computer processing, computation, and proprietary programs purchased for the work.

Reimbursement for vehicles used in connection with the work will be at the federally approved mileage rates or at a negotiated monthly rate.

If prevailing wage rates apply, the above billing rates will be adjusted as appropriate.

Overtime for non-exempt employees will be billed at one and a half times the Hourly Rates specified above.

Rates for professional staff for legal proceedings or as expert witnesses will be at rates one and one-half times the Hourly Rates specified above.

Excise and gross receipts taxes, if any, will be added as a direct expense.



**MASTER AGREEMENT FOR UTILITY LOCATING/POTHOLING SERVICES  
AIRX UTILITY SURVEYORS, INC.**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of June, 2025, but effective July 1, 2025, by and between the Carlsbad Municipal Water District, a Public Agency organized under the Municipal Water Act of 1911, and a Subsidiary District of the City of Carlsbad, California ("CMWD"), and AirX Utility Surveyors, Inc., a California corporation, ("Contractor").

**RECITALS**

- A. CMWD requires the professional services of a consultant that is experienced in utility locating/potholing services.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to utility locating/potholing services.
- D. Contractor has submitted a proposal to CMWD responsive to Request for Qualifications RFQ25-3437CA and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, CMWD and Contractor agree as follows:

**1. SCOPE OF WORK**

CMWD retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A", which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective for a period of three (3) years from July 1, 2025, through June 30, 2028. The Executive Manager may amend the Agreement to extend it for two (2) additional one (1) year(s) periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, CMWD needs, and appropriation of funds by the CMWD Board of Directors. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by CMWD and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the Executive Manager or General Manager as authorized by the Executive Manager. The Executive Manager or General Manager will give

allowance for documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight on the part of Contractor, or delays caused by CMWD inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed four hundred thousand dollars (\$400,000). Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, CMWD shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for CMWD, the Executive Manager or General Manager, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

If CMWD elects to extend the term of the Master Services Agreement, adjustments to the rate schedule may be permitted. Upon receipt of a written request from the Contractor, CMWD may consider approving a rate schedule increase. Rate schedule increases will be considered for each anniversary of the Agreement effective date after the initial three-year term. An increase to the rate schedule will be calculated based on the proceeding 12-month percentage change in the Consumer Price Index, San Diego Area, for All Urban Customers (CPI-U), as reported by the Bureau of Labor Statistics or 5.0%, whichever is lower. If the CPI-U is a negative number, then the rate schedule will not be adjusted for that year. The Contractor must submit a request and justification to increase the rate schedule at least sixty days prior to the anniversary of the effective date, assuming CMWD opt to extend the Master Services Agreement. The justification accompanying the written request should detail the rationale for the requested adjustment, and the requested adjustment amount, supported by relevant documentation (e.g., CPI-U or 5.0%, whichever is less). Approval of rate schedule increase by CMWD must be documented in an amendment to the Agreement.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California

Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize the Owner's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. The Contractor is required to create a free web-based Procore user account(s) and utilize web-based training / tutorials (as needed) to become familiar with the system. Unless the Engineer approves otherwise, the Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. The Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of the Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that the Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, RFIs, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

## **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of CMWD. Contractor will be under the control of CMWD only as to the result to be accomplished, but will consult with CMWD as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of CMWD for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. CMWD will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. CMWD will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify CMWD and the City of Carlsbad within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which CMWD may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At CMWD's election, CMWD may deduct the indemnification amount from any balance owing to Contractor.

**9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

**10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of CMWD. If Contractor subcontracts any of the Services, Contractor will be fully responsible to CMWD for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and CMWD. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by CMWD.

**11. OTHER CONTRACTORS**

CMWD reserves the right to employ other Contractors in connection with the Services.

**12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by CMWD), indemnify and hold harmless CMWD and the City of Carlsbad and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense CMWD or the City of Carlsbad incurs or makes to or on behalf of an injured employee under CMWD's self-administered workers' compensation is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

**13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current

Best's Key Rating of not less than "A-VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

13.1 Coverages and Limits. Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to CMWD's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 CMWD will be named as an additional insured on General Liability which shall provide primary coverage to CMWD.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to CMWD sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to CMWD’s execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to CMWD.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then CMWD will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by CMWD to obtain or maintain insurance and CMWD may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. CMWD reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

**14. BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

**15. ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of CMWD during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

**16. OWNERSHIP OF DOCUMENTS**

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of CMWD. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to CMWD. Contractor will have the right to make one (1) copy of the work product for Contractor’s records.

**17. COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in CMWD and Contractor relinquishes all claims to the copyrights in favor of CMWD.

**18. NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of CMWD and on behalf of Contractor under this Agreement.

For CMWD:

Name	Eleida Felix Yackel
Title	Senior Contract Administrator
Dept	Public Works/ Contract Admin
	<u>CARLSBAD MUNICIPAL WATER DISTRICT</u>
Address	1635 Faraday Ave.
	Carlsbad, CA 92008

For Contractor:

Name	Jenn Harris
Title	CEO/President
Address	785 East Mission Rd, Suite 100
	San Marcos, CA 92069
Phone	6197103124
Email	Jharris@airxus.com

Phone 442-339-2767

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

**19. GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

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If a dispute should arise regarding the performance of the Services the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or CMWD will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, CMWD may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If CMWD decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, CMWD may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by CMWD and all work in progress to CMWD address contained in this Agreement. CMWD will make a determination of fact based upon the work product delivered to CMWD and of the percentage of work

that Contractor has performed which is usable and of worth to CMWD in having the Agreement completed. Based upon that finding CMWD will determine the final payment of the Agreement.

CMWD may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to CMWD. In the event of termination of this Agreement by either party and upon request of CMWD, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to CMWD. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. CMWD will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, CMWD will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any agreement claim submitted to CMWD must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to CMWD, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If CMWD seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon CMWD and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of CMWD, which shall not be unreasonably withheld.



**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the CMWD and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract, and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.


**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}

CONTRACTOR  
AIRX UTILITY SURVEYORS, INC., a California  
corporation

CARLSBAD MUNICIPAL WATER DISTRICT, a  
Public Agency organized under the  
Municipal Water Act of 1911, and a  
Subsidiary District of the City of Carlsbad

By:   
\_\_\_\_\_  
(sign here)

By: \_\_\_\_\_  
Keith Blackburn, President

\_\_\_\_\_  
Jennifer Emily Harris, President  
(print name/title)

ATTEST:  
SHERRY FREISINGER, Secretary

By:   
\_\_\_\_\_  
(sign here)

By: \_\_\_\_\_  
Faviola Medina,  
Director of Constituent & Clerk Services

\_\_\_\_\_  
Ivan Fox, Secretary  
(print name/title)

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

**Group A**  
Chairman,  
President, **or**  
Vice-President

**Group B**  
Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:  
CINDIE K. McMAHON, General Counsel

BY: Cindie K. McMahon

**EXHIBIT A****SCOPE OF SERVICES AND FEES**

Perform a variety of utility locating and potholing tasks as outlined in individual Project Task Descriptions & Fee Allotments (PTD&FA), related to the following:

- A. Subsurface Utility Potholing and Locating.
- B. Ground Penetrating Radar Services.
- C. Utility Research / Documentation.
- D. Field Determination/ Documentation.

Requests for work not listed above must be contracted under separate agreement.


**AIRX UTILITY SURVEYORS, INC.**
**WBE - WOSB - SB - SLBE / LICENSE #830790 A, C31**

## Attachment B – Master Service Agreement Rate Schedule

	<u>NAME</u>	<u>TITLE</u>	<u>HOURLY RATE</u>
1.	Gabriel Mercado	Operations Manager	\$205/hr
2.	Rodrigo Rodriguez/Jose Gonzalez	Project Manager	\$205/hr
3.	Salvador Silva	Superintendent	\$200/hr
4.	Clinton Boogaard	Plans/Permits	\$130/hr
5.	Kara Hoover	Admin/Certified Payroll	\$125/hr

### Locating (1 man crew):

	<u>DESCRIPTION</u>	<u>RATE</u>
1.	Electromagnetic Locating	\$225/hr
2.	Ground Penetrating Radar (GPR)	\$275/hr
3.	Push Rod Locating	\$250/hr
4.	Vault/Manhole Dips	\$170/hr

### Potholing (2--Man Crew with T7 Rival, 7 yard truck, and Support Truck)

	<u>DESCRIPTION</u>	<u>RATE</u>
1.	Pothole Crew (Per Regular Hour) Includes: Cold Mix or Rapid Set Patches and Class II Base for Backfill, Standard Traffic Control Set-Up (up to a 500ft Lane Closure Taper)*. Average 4 Potholes Per Day.	\$540/hr
2.	Pothole crew (Per Premium Hour) Includes:	\$760/hr



# AIRX UTILITY SURVEYORS, INC.

WBE - WOSB - SB - SLBE / LICENSE #830790 A, C31

	Cold Mix or Rapid Set Patches and Class II Base for Backfill, Standard Traffic Control Set-Up Included (up to a 500ft Lane Closure Taper)*. Average 4 Potholes Per Day.	
3.	Hotpatch: Standard 1ft by 1ft Patch.	\$205/ea
4.	Hotpatch: Grind and Overlay Up To a 2ft by 2ft Square, Per Patch (Standard Traffic Control Set-Up Included, up to a 500ft Lane Closure Taper)*. 4-Man Crew. Average 7 per day.	\$7,300/day
5.	Slurry Backfill: As Required Per City of Carlsbad Standards (Per Pothole).	\$500/ea
6.	Traffic Control Plans	\$190/sheet
7.	Traffic Control Plans - Engineered Stamped (Per Sheet).	\$470/sheet
8.	Large Traffic Control Set-Up (Multiple Lane Closures, Intersections, Detours).	\$1,400/day
9.	Nightwork Traffic Control Set-Ups.	\$2,100/night
10.	Flagman Service (per hour/Per Crew) Includes 2 Flagman, and Standard Flagging Set-Up.	\$320/hr per crew
11.	Report Drafting per hour (Averaging 30 Minutes Per Pothole, Deliverable Will Be A PDF Report with Maps & Photos. Copies are available upon request).	\$175/hr
12.	USA Mark-Out & Paint Removal	\$200/hr

\*Standalone rate for Standard Traffic Control setup, up to 500ft lane closure taper is \$800/day

Prices valid through Term of Agreement

## **MASTER AGREEMENT FOR UTILITY LOCATING/POTHOLING SERVICES GUIDA**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of June, 2025, but effective July 1, 2025, by and between the Carlsbad Municipal Water District, a Public Agency organized under the Municipal Water Act of 1911, and a Subsidiary District of the City of Carlsbad, California ("CMWD"), and GUIDA, a California corporation, ("Contractor").

### **RECITALS**

- A. CMWD requires the professional services of a consultant that is experienced in utility locating/potholing services.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to utility locating/potholing services.
- D. Contractor has submitted a proposal to CMWD responsive to Request for Qualifications RFQ25-3437CA and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, CMWD and Contractor agree as follows:

### **1. SCOPE OF WORK**

CMWD retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A", which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

### **2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

### **3. TERM**

The term of this Agreement will be effective for a period of three (3) years from July 1, 2025, through June 30, 2028. The Executive Manager may amend the Agreement to extend it for two (2) additional one (1) year(s) periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, CMWD needs, and appropriation of funds by the CMWD Board of Directors. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

### **4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by CMWD and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the Executive Manager or General Manager as authorized by the Executive Manager. The Executive Manager or General Manager will give

allowance for documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight on the part of Contractor, or delays caused by CMWD inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed four hundred thousand dollars (\$400,000). Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, CMWD shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for CMWD, the Executive Manager or General Manager, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

If CMWD elects to extend the term of the Master Services Agreement, adjustments to the rate schedule may be permitted. Upon receipt of a written request from the Contractor, CMWD may consider approving a rate schedule increase. Rate schedule increases will be considered for each anniversary of the Agreement effective date after the initial three-year term. An increase to the rate schedule will be calculated based on the proceeding 12-month percentage change in the Consumer Price Index, San Diego Area, for All Urban Customers (CPI-U), as reported by the Bureau of Labor Statistics or 5.0%, whichever is lower. If the CPI-U is a negative number, then the rate schedule will not be adjusted for that year. The Contractor must submit a request and justification to increase the rate schedule at least sixty days prior to the anniversary of the effective date, assuming CMWD opt to extend the Master Services Agreement. The justification accompanying the written request should detail the rationale for the requested adjustment, and the requested adjustment amount, supported by relevant documentation (e.g., CPI-U or 5.0%, whichever is less). Approval of rate schedule increase by CMWD must be documented in an amendment to the Agreement.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California

Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize the Owner's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. The Contractor is required to create a free web-based Procore user account(s) and utilize web-based training / tutorials (as needed) to become familiar with the system. Unless the Engineer approves otherwise, the Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. The Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of the Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that the Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, RFIs, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

## **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of CMWD. Contractor will be under the control of CMWD only as to the result to be accomplished, but will consult with CMWD as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of CMWD for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. CMWD will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. CMWD will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify CMWD and the City of Carlsbad within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which CMWD may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At CMWD's election, CMWD may deduct the indemnification amount from any balance owing to Contractor.



**9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

**10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of CMWD. If Contractor subcontracts any of the Services, Contractor will be fully responsible to CMWD for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and CMWD. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by CMWD.

**11. OTHER CONTRACTORS**

CMWD reserves the right to employ other Contractors in connection with the Services.

**12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by CMWD), indemnify and hold harmless CMWD and the City of Carlsbad and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense CMWD or the City of Carlsbad incurs or makes to or on behalf of an injured employee under CMWD's self-administered workers' compensation is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

**13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current

Best's Key Rating of not less than "A-VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

13.1 Coverages and Limits. Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to CMWD's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 CMWD will be named as an additional insured on General Liability which shall provide primary coverage to CMWD.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to CMWD sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to CMWD’s execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to CMWD.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then CMWD will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by CMWD to obtain or maintain insurance and CMWD may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. CMWD reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

**14. BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

**15. ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of CMWD during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

**16. OWNERSHIP OF DOCUMENTS**

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of CMWD. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to CMWD. Contractor will have the right to make one (1) copy of the work product for Contractor’s records.

**17. COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in CMWD and Contractor relinquishes all claims to the copyrights in favor of CMWD.

**18. NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of CMWD and on behalf of Contractor under this Agreement.

For CMWD:

Name	Eleida Felix Yackel
Title	Senior Contract Administrator
Dept	Public Works/ Contract Admin
	<u>CARLSBAD MUNICIPAL WATER DISTRICT</u>
Address	1635 Faraday Ave.
	Carlsbad, CA 92008

For Contractor:

Name	Tom Pilarski, PLS
Title	Project Manager
Address	220 Commerce, Suite 150
	Irvine, CA 92602
Phone	949-777-2074
Email	tpilarski@guidainc.com

Phone 442-339-2767

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

**19. GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or CMWD will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

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In the event of the Contractor's failure to prosecute, deliver, or perform the Services, CMWD may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If CMWD decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, CMWD may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by CMWD and all work in progress to CMWD address contained in this Agreement. CMWD will make a determination of fact based upon the work product delivered to CMWD and of the percentage of work

that Contractor has performed which is usable and of worth to CMWD in having the Agreement completed. Based upon that finding CMWD will determine the final payment of the Agreement.

CMWD may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to CMWD. In the event of termination of this Agreement by either party and upon request of CMWD, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to CMWD. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. CMWD will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, CMWD will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any agreement claim submitted to CMWD must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to CMWD, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If CMWD seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon CMWD and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of CMWD, which shall not be unreasonably withheld.

**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the CMWD and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract, and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}

CONTRACTOR  
GUIDA, a California corporation

CARLSBAD MUNICIPAL WATER DISTRICT, a  
Public Agency organized under the  
Municipal Water Act of 1911, and a  
Subsidiary District of the City of Carlsbad

By:

*Bernard McNally*

(sign here)

Bernard McNally, Executive Vice President

(print name/title)

By:

(sign here)

(print name/title)

By:

Keith Blackburn, President

ATTEST:

SHERRY FREISINGER, Secretary

By:

Faviola Medina,  
Director of Constituent & Clerk Services

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

**Group A**

Chairman,  
President, **or**  
Vice-President

**Group B**

Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, General Counsel

BY:

*Cindie K. McMahon*

**EXHIBIT A**

**SCOPE OF SERVICES AND FEES**

Perform a variety of utility locating and potholing tasks as outlined in individual Project Task Descriptions & Fee Allotments (PTD&FA), related to the following:

- A. Subsurface Utility Potholing and Locating.
- B. Ground Penetrating Radar Services.
- C. Utility Research / Documentation.
- D. Field Determination/ Documentation.

Requests for work not listed above must be contracted under separate agreement.





## ATTACHMENT B - MASTER SERVICES AGREEMENT RATE SCHEDULE

Prices valid through the 3-year term of the agreement

### 14. UTILITY LOCATING/POTHOLING

#### PRIME CONSULTANT: GUIDA

STAFF NAME	CLASSIFICATION	HOURLY RATE
Bernie McNally, PLS	Survey Principal	\$350.00
Tom Pilarski, PLS	Project Manager	\$300.00
Eddie Brisendine, PLS	SUE Office Lead	\$300.00
Tim Fettig, PLS	SUE Field Lead	\$295.00
Remote Sensing lead	Remote Sensing lead	\$265.00
QA/QC Manager	QA/QC Manager	\$285.00
Sr. Project Surveyor	Sr. Project Surveyor	\$235.00
Project Surveyor	Project Surveyor	\$210.00
SUE Supervisor	SUE Supervisor	\$210.00
Sr. Survey Analyst	Sr. Survey Analyst	\$190.00
Survey Analyst	Survey Analyst	\$170.00
SUE CAD Technician	SUE Technician	\$150.00
Survey/CAD Technician	Survey/CAD Technician	\$150.00
Project Coordinator	Project Coordinator	\$150.00
1-Man SUE Crew**	1-Man SUE Crew	\$235.00
2-Man SUE Crew**	2-Man SUE Crew	\$410.00
3-Man Survey Crew**	3-Man Survey Crew**	\$530.00
2-Man Survey Crew**	2-Man Survey Crew**	\$415.00
1-Man Survey Crew**	1-Man Survey Crew**	\$250.00
** Denotes Prevailing Wage Classification		

#### SSUBCONSULTANT: T2 UTILITY ENGINEERS

STAFF NAME	CLASSIFICATION	HOURLY RATE
Arthur Glen Robinson, PE	Project Director	\$245.00
Senior Project Manager	Senior Project Manager	\$215.00
Project Engineer	Project Engineer	\$190.00
Project Surveyor	Project Surveyor	\$185.00
Project Manager	Project Manager	\$150.00
SUE Manager	SUE Manager	\$145.00
Assistant Project Manager	Assistant Project Manager	\$125.00
CADD Supervisor	CADD Supervisor	\$125.00
SUE Supervisor**	SUE Supervisor	\$130.00
SUE Technician III**	SUE Technician III	\$130.00
SUE Technician II**	SUE Technician II	\$130.00
SUE Technician I**	SUE Technician I	\$130.00
CADD Technician	CADD Technician	\$90.00
Administrative Support	Administrative Support	\$90.00

#### EXPENSES

DESCRIPTION	ESTIMATED COST	% MARKUP
PRIME CONSULTANT: GUIDA		
Mileage	Current IRS Rate per mile	N/A
Shipping & Deliveries	\$35 Each	10%
Research Reproductions	\$5.00 per Page	N/A
GPR Tow Behind Sled	\$2,200 per Day	N/A
Mobile LiDAR Use Fee	\$1,428 per Day	N/A
Agency Checking/Permit Fees	At Cost plus markup	10%
Preliminary Title Reports	At Cost plus markup	10%
Subconsultant Invoices	At Cost plus markup	10%
SUBCONSULTANT: T2 UTILITY ENGINEERS		
Encroachment and Traffic Permits	At cost plus markup	10%
Traffic Control Plans - Engineer Stamped	\$800 per sheet	N/A
Subcontractors (Asphalt, Traffic Control, etc.)	At cost plus markup	10%
Miscellaneous Materials/Expenses such as restoration, hauling/dumping, etc.	At cost plus markup	10%

#### NOTES

Straight time will be billed for all work performed on-site up to 8 hours each day, Monday through Friday.

**OVERTIME** Overtime (1.5x) will begin after 8 hours, Monday through Friday and on Saturdays. Double time (2x) will begin after 12 hours and on Sundays and holidays.

All rates shown will be held fixed for the initial 3-year term of the agreement. If the agreement is extended past the 3-year term, escalation will be applied to the rates shown in accordance with Consumer Price Index for San Diego or 5%, whichever is less.

Signature of Authorized Official: 

Name (print): Bernie McNally, PLS

Title: Executive Vice President

Date: 12/31/2024

**MASTER AGREEMENT FOR AS-NEEDED VERTICAL CONSTRUCTION MANAGEMENT AND INSPECTION  
CPM PARTNERS, INC.**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2025, but effective August 18, 2025, by and between the Carlsbad Municipal Water District, a Public Agency organized under the Municipal Water Act of 1911, and a Subsidiary District of the City of Carlsbad, California ("CMWD"), and CPM Partners, Inc., a California corporation ("Contractor").

**RECITALS**

- A. CMWD requires the professional services of a consultant that is experienced in construction management and inspection for vertical projects.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to as-needed vertical construction management and inspection.
- D. Contractor has submitted a proposal to CMWD responsive to Request for Qualifications RFQ25-3671CMI and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, CMWD and Contractor agree as follows:

**1. SCOPE OF WORK**

CMWD retains Contractor to perform, and Contractor agrees to render those services ("Services") that are defined in attached Exhibit "A," which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California Area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective from the date first above written to Aug. 17, 2028. The Executive Manager may amend the Agreement to extend it for two (2) additional one (1) year periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, CMWD needs, and appropriation of funds by the CMWD Board of Directors. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by CMWD and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the Executive Manager or General

Manager as authorized by the Executive Manager. The Executive Manager or General Manager will give allowance for documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight on the part of Contractor, or delays caused by CMWD inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed eight hundred thousand dollars (\$800,000) per Agreement year. If the City elects to extend the Agreement pursuant to Section 3, the costs of services may increase by a maximum of 2% per Agreement year, if agreed to by both parties. Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, CMWD shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for CMWD, the Executive Manager or General Manager, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor or subconsultant performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code section 1725.5. California Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work, unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize CMWD's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team

dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. Contractor is required to create a free web-based Procore user account(s) and utilize web-based training/tutorials (as needed) to become familiar with the system. Unless the City of Carlsbad City Engineer approves otherwise, Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, requests for information, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve the contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

#### **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of CMWD. Contractor will be under the control of CMWD only as to the result to be accomplished, but will consult with CMWD as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of CMWD for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. CMWD will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. CMWD will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify CMWD and the City of Carlsbad within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which CMWD may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At CMWD's election, CMWD may deduct the indemnification amount from any balance owing to Contractor.

#### **9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated, and the results will be considered for future task orders or agreements.

#### **10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of CMWD. If Contractor subcontracts any of the Services, Contractor will be fully responsible to CMWD for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the

subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and CMWD. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by CMWD.

**11. OTHER CONTRACTORS**

CMWD reserves the right to employ other Contractors in connection with the Services.

**12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by CMWD), indemnify and hold harmless CMWD and the City of Carlsbad and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorney's fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense CMWD or the City of Carlsbad incurs or makes to or on behalf of an injured employee under CMWD's self-administered workers' compensation is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

**13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current Best's Key Rating of not less than "A-VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

**13.1 Coverages and Limits.** Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect

Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to CMWD's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 CMWD will be named as an additional insured on General Liability which shall provide primary coverage to CMWD.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to CMWD sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to CMWD's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to CMWD.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then CMWD will have the option to declare Contractor in breach or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by CMWD to obtain or maintain insurance and CMWD may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. CMWD reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

14. **BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

15. **ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of CMWD during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

16. **OWNERSHIP OF DOCUMENTS**

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of CMWD. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to CMWD. Contractor will have the right to make one (1) copy of the work product for Contractor’s records.

17. **COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in CMWD and Contractor relinquishes all claims to the copyrights in favor of CMWD.

18. **NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of CMWD and on behalf of Contractor under this Agreement.

For CMWD:

Name	Jennifer Chapman
Title	Senior Contract Administrator
Dept	Public Works/CM&I
<u>CARLSBAD MUNICIPAL WATER DISTRICT</u>	
Address	1635 Faraday Ave.
	Carlsbad, CA 92008
Phone	442-339-2780

For Contractor:

Name	Alex Janecek
Title	Vice President
Address	523 Encinitas Blvd., #200
	Encinitas, CA 92024
Phone	310-989-3104
Email	<a href="mailto:alex@cpm-partners.com">alex@cpm-partners.com</a>

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

19. **GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and

regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services, the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or CMWD will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, CMWD may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If CMWD decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, CMWD may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by CMWD and all work in progress to CMWD address contained in this Agreement. CMWD will make a determination of fact based upon the work product delivered to CMWD and of the percentage of work that Contractor has performed which is usable and of worth to CMWD in having the Agreement completed. Based upon that finding CMWD will determine the final payment of the Agreement.

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the lump sum fee payable under this Agreement. CMWD will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, CMWD will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any agreement claim submitted to CMWD must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to CMWD, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If CMWD seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTION AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon CMWD and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of CMWD, which shall not be unreasonably withheld.

**28. THIRD PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the CMWD and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and

understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}

CONTRACTOR  
CPM Partners, Inc., a California Corporation

CARLSBAD MUNICIPAL WATER DISTRICT, a  
Public Agency organized under the Municipal  
Water Act of 1911, and a Subsidiary District of  
the City of Carlsbad

By:

*Maribel Janecek*

(sign here)

Maribel Janecek, President & CFO

(print name/title)

By:

(sign here)

(print name/title)

By:

KEITH BLACKBURN, President

ATTEST:

SHERRY FREISINGER, Secretary

By:

Director of Constituent & Clerk Services

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

Group A

Chairman,  
President, **or**  
Vice-President

Group B

Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, General Counsel

By:

*Cindie K. McMahon*

**EXHIBIT A**

**SCOPE OF SERVICES AND FEE**

Contractor shall perform as-needed vertical construction management and inspection services in accordance with the city's Request for Qualifications (RFQ25-3671CMI) dated March 5, 2025. The agreed upon billing rates for services outlined in said proposal are attached hereto.

All hours billed will be paid at a straight time rate; no overtime billing allowed.

Hours billed on a non-contractor workday must receive prior authorization by city staff.

Rates are inclusive of equipment, vehicle, mileage, laptop computers with wireless connections, cell phone, insurance, travel time, etc.

**Exhibit B - Rate Schedule****CPM Partners**

City of Carlsbad, RFQ25-3671CMI

Prices valid through initial Term of Agreement

**CPM Partners, Inc**

	<u>NAME</u>	<u>TITLE</u>	<u>HOURLY RATE</u>
1	Alex Janecek, PE, CCM, QSD	RE, Sr. Scheduler, Sr. Claims	\$240.00
2	Gordon Costa, PE	Lead Scheduler, Claims	\$264.00
3	Ahmad Rafiq, PE	RE, Inspector	\$233.00
4	Pedro Aguilar	ARE, Inspector	\$224.00
5	Rafael Perez	OE, Inspector	\$224.00
6	Agustin Salinas, PE	OE, Inspector	\$165.00
7	Wendy Casdorff	Project Controls, Admin	\$133.00
8	Ylonda Miles	Admin / Document Control	\$120.00
9	Ryan Priestman, PMP	Scheduler, Claims Support	\$181.00
10	Mellissa Leyendecker	OE, Admin	\$134.00
11	Erick Strickland	Constructability Reviewer	\$212.00
12			

**Sub-Consultants**

	<u>NAME/FIRM</u>	<u>TITLE</u>	<u>HOURLY RATE</u>
1	Gannett Fleming, Inc.		Attached
2	Kleinfelder Construction Svcs		Attached
3	La Salle Solutions		Attached
4	New City Consulting		Attached
5	NOVA Services		Attached

**Expenses**

	<u>DESCRIPTION</u>	<u>COST</u>	<u>% MARKUP</u>
1	n/a		
2			
3			
4			
5			

**Exhibit B - Rate Schedule****Gannett Fleming**

City of Carlsbad, RFQ25-3671CMI

Prices valid through initial Term of Agreement

**Gannett Fleming Revision 01**

	<u>NAME</u>	<u>TITLE</u>	<u>HOURLY RATE</u>
1	David Toschak (GAN)	Resident Engineer	\$216.62
2	David Cooper (GAN)	Resident Engineer	\$281.86
3	*Mike Broadwater (GAN)	SWPPP Inspector	\$232.95
4	*John Tonarely (GAN)	Inspector	\$232.95
5	*David Shepherd (GAN)	Inspector	\$199.94
6	Rhodie Lumanog (GAN)	Labor Compliance	\$145.26
7	Jim Gallego (GAN)	Scheduler	\$240.00
9			
10			
11			
12			

**Sub-Consultants**

	<u>NAME/FIRM</u>	<u>TITLE</u>	<u>HOURLY RATE</u>
1			
2			
3			
4			
5			

**Expenses**

	<u>DESCRIPTION</u>	<u>COST</u>	<u>% MARKUP</u>
1		\$	0%
2			
3			
4			
5			

\* Denotes employees/classifications that are subject to CA prevailing wage. Rates above are day-shift straight-time rates.

**Exhibit B - Rate Schedule****Kleinfelder Construction Services**

City of Carlsbad, RFQ25-3671CMI

Prices valid through initial Term of Agreement

<b>Kleinfelder Construction Services</b>			
	<b><u>NAME</u></b>	<b><u>TITLE</u></b>	<b><u>HOURLY RATE</u></b>
1	Matt Burris, PE, QSD (KCS)	Resident Engineer	\$208.00
2	James Foote (KCS)	ARE/Inspector	\$199.00
3	Claire Fetros (KCS)	ARE/Inspector	\$199.00
4	Brian O'Dell, EIT (KCS)	ARE/Inspector	\$199.00
5	Joe Massie (KCS)	ARE/Inspector	\$199.00
6	Mark Plotnikiewicz, PE, QSD (KC)	Senior Scheduler	\$260.00
7			

<b>Sub-Consultants</b>			
	<b><u>NAME/FIRM</u></b>	<b><u>TITLE</u></b>	<b><u>HOURLY RATE</u></b>
1			
2			
3			
4			
5			

<b>Expenses</b>			
	<b><u>DESCRIPTION</u></b>	<b><u>COST</u></b>	<b><u>% MARKUP</u></b>
1			0%
2			
3			
4			
5			

**Exhibit B - Rate Schedule****La Salle Solutions LLC**

City of Carlsbad, RFQ25-3671CMI

Prices valid through initial Term of Agreement

La Salle Solutions			
	<u>NAME</u>	<u>TITLE</u>	<u>HOURLY RATE</u>
1	Enrique Castaneda	CM/RE	\$235.00
2	Samuel Virgil	CM/RE	\$235.00
3	Robin Wollen	Construction Inspector	\$235.00
4			
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12			

Sub-Consultants			
	<u>NAME/FIRM</u>	<u>TITLE</u>	<u>HOURLY RATE</u>
1			
2			
3			
4			
5			

Expenses			
	<u>DESCRIPTION</u>	<u>COST</u>	<u>% MARKUP</u>
1			
2			
3			
4			
5			



**Exhibit B - Rate Schedule****New City Consulting**

City of Carlsbad, RFQ25-3671CMI

Prices valid through initial Term of Agreement

New City Consulting			
	<u>NAME</u>	<u>TITLE</u>	<u>HOURLY RATE</u>
1	Patrick Nolan (NEW)	Senior Construction Manager	\$233.00
2	Matthew Horak (NEW)	Construction Manager	\$198.00
3	Mark Brunelle (NEW)	Senior Construction Inspector	\$185.00
4	Lisa Brennan (NEW)	Assistant Construction Manager	\$166.00
5	Jessica Poorman (NEW)	Certified Payroll Compliance	\$130.00
6			
7			
8			
9			
10			
11			
12			

Sub-Consultants			
	<u>NAME/FIRM</u>	<u>TITLE</u>	<u>HOURLY RATE</u>
1			
2			
3			
4			
5			

Expenses			
	<u>DESCRIPTION</u>	<u>COST</u>	<u>% MARKUP</u>
1			
2			
3			
4			
5			

**Exhibit B - Rate Schedule****Nova Services**

City of Carlsbad, RFQ25-3671CMI

Prices valid through initial Term of Agreement

<b>Nova Services</b>			
	<b><u>NAME</u></b>	<b><u>TITLE</u></b>	<b><u>HOURLY RATE</u></b>
1	Tom Canady (Nova)	Principal Engineer	\$240.00
2	Adam Greening (Nova)	Laboratory Manager	\$110.00
3	Simon Sayavanh (Nova)	Special Inspector	\$142.00
4	Morgan Lamb (Nova)	Special Inspector	\$142.00
5	Steve Hamlin (Nova)	Field Technician	\$140.00
6	Brian Steinhauer (Nova)	Field Technician	\$140.00
7			
8			
9			
10			
11			
12			

<b>Sub-Consultants</b>			
	<b><u>NAME/FIRM</u></b>	<b><u>TITLE</u></b>	<b><u>HOURLY RATE</u></b>
1			
2			
3			
4			

<b>Expenses</b>			
	<b><u>DESCRIPTION</u></b>	<b><u>COST</u></b>	<b><u>% MARKUP</u></b>
1	Monthly MetaField Reporting	\$425/month	0%
2	Coring Two Man Crew	\$345/hour	0%
3			
4			
5			

**MASTER AGREEMENT FOR AS-NEEDED VERTICAL CONSTRUCTION MANAGEMENT AND INSPECTION  
NEW CITY CONSULTING, INC.**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2025, but effective August 18, 2025, by and between the Carlsbad Municipal Water District, a Public Agency organized under the Municipal Water Act of 1911, and a Subsidiary District of the City of Carlsbad, California ("CMWD"), and New City Consulting, Inc., a California corporation ("Contractor").

**RECITALS**

- A. CMWD requires the professional services of a consultant that is experienced in construction management and inspection for vertical projects.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to as-needed vertical construction management and inspection.
- D. Contractor has submitted a proposal to CMWD responsive to Request for Qualifications RFQ25-3671CMI and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, CMWD and Contractor agree as follows:

**1. SCOPE OF WORK**

CMWD retains Contractor to perform, and Contractor agrees to render those services ("Services") that are defined in attached Exhibit "A," which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California Area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective from the date first above written to Aug. 17, 2028. The Executive Manager may amend the Agreement to extend it for two (2) additional one (1) year periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, CMWD needs, and appropriation of funds by the CMWD Board of Directors. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by CMWD and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the Executive Manager or General

Manager as authorized by the Executive Manager. The Executive Manager or General Manager will give allowance for documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight on the part of Contractor, or delays caused by CMWD inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed eight hundred thousand dollars (\$800,000) per Agreement year. If the City elects to extend the Agreement pursuant to Section 3, the costs of services may increase by a maximum of 2% per Agreement year, if agreed to by both parties. Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, CMWD shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for CMWD, the Executive Manager or General Manager, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor or subconsultant performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code section 1725.5. California Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work, unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize CMWD's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team

dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. Contractor is required to create a free web-based Procore user account(s) and utilize web-based training/tutorials (as needed) to become familiar with the system. Unless the City of Carlsbad City Engineer approves otherwise, Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, requests for information, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve the contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

#### **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of CMWD. Contractor will be under the control of CMWD only as to the result to be accomplished, but will consult with CMWD as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of CMWD for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. CMWD will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. CMWD will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify CMWD and the City of Carlsbad within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which CMWD may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At CMWD's election, CMWD may deduct the indemnification amount from any balance owing to Contractor.

#### **9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated, and the results will be considered for future task orders or agreements.

#### **10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of CMWD. If Contractor subcontracts any of the Services, Contractor will be fully responsible to CMWD for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the

subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and CMWD. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by CMWD.

#### **11. OTHER CONTRACTORS**

CMWD reserves the right to employ other Contractors in connection with the Services.

#### **12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by CMWD), indemnify and hold harmless CMWD and the City of Carlsbad and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorney's fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense CMWD or the City of Carlsbad incurs or makes to or on behalf of an injured employee under CMWD's self-administered workers' compensation is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

#### **13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current Best's Key Rating of not less than "A-:VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

**13.1 Coverages and Limits.** Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect

Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to CMWD's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 CMWD will be named as an additional insured on General Liability which shall provide primary coverage to CMWD.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to CMWD sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to CMWD's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to CMWD.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then CMWD will have the option to declare Contractor in breach or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by CMWD to obtain or maintain insurance and CMWD may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. CMWD reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

14. **BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

15. **ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of CMWD during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

16. **OWNERSHIP OF DOCUMENTS**

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of CMWD. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to CMWD. Contractor will have the right to make one (1) copy of the work product for Contractor’s records.

17. **COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in CMWD and Contractor relinquishes all claims to the copyrights in favor of CMWD.

18. **NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of CMWD and on behalf of Contractor under this Agreement.

For CMWD:

Name	Jennifer Chapman
Title	Senior Contract Administrator
Dept	Public Works/CM&I
<u>CARLSBAD MUNICIPAL WATER DISTRICT</u>	
Address	1635 Faraday Ave.
	Carlsbad, CA 92008
Phone	442-339-2780

For Contractor:

Name	Patrick Nolan
Title	President
Address	31959 Via Ararat Drive
	Bonsall, CA 92003
Phone	858-254-2949
Email	<a href="mailto:patrick@newcityconsulting.com">patrick@newcityconsulting.com</a>

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

19. **GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and



regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services, the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or CMWD will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, CMWD may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If CMWD decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, CMWD may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by CMWD and all work in progress to CMWD address contained in this Agreement. CMWD will make a determination of fact based upon the work product delivered to CMWD and of the percentage of work that Contractor has performed which is usable and of worth to CMWD in having the Agreement completed. Based upon that finding CMWD will determine the final payment of the Agreement.

CMWD may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to CMWD. In the event of termination of this Agreement by either party and upon request of CMWD, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to CMWD. Contractor will be paid for work performed to the termination date; however, the total will not exceed

the lump sum fee payable under this Agreement. CMWD will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, CMWD will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any agreement claim submitted to CMWD must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to CMWD, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If CMWD seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTION AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon CMWD and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of CMWD, which shall not be unreasonably withheld.

**28. THIRD PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the CMWD and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and

understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}

CONTRACTOR  
NEW CITY CONSULTING, INC., a California  
corporation

By:

Patrick Nolan

(sign here)

Patrick Nolan,  
President and Chief Financial Officer  
(print name/title)

By:

(sign here)

(print name/title)

CARLSBAD MUNICIPAL WATER DISTRICT, a  
Public Agency organized under the Municipal  
Water Act of 1911, and a Subsidiary District of  
the City of Carlsbad

By:

KEITH BLACKBURN, President

ATTEST:

SHERRY FREISINGER, Secretary

By:

Director of Constituent & Clerk Services

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

Group A

Chairman,  
President, **or**  
Vice-President

Group B

Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, General Counsel

By:

Cindie K. McMahon

**EXHIBIT A**

**SCOPE OF SERVICES AND FEE**

Contractor shall perform as-needed vertical construction management and inspection services in accordance with the city's Request for Qualifications (RFQ25-3671CMI) dated March 5, 2025. The agreed upon billing rates for services outlined in said proposal are attached hereto.

All hours billed will be paid at a straight time rate; no overtime billing allowed.

Hours billed on a non-contractor workday must receive prior authorization by city staff.

Rates are inclusive of equipment, vehicle, mileage, laptop computers with wireless connections, cell phone, insurance, travel time, etc.

**Rate Schedule****Firm Name**

City of Carlsbad, RFQ25-3671CMI

Prices valid through initial Term of Agreement

**Staff**

	<u>NAME</u>	<u>TITLE</u>	<u>HOURLY RATE</u>
1	Names of staff	Senior Construction Manager	\$233.00
2	not required per	Construction Manager	\$198.00
3	Addendum No. 2	Senior Construction Inspector	\$185.00
4	Q&A set.	Assistant Construction Manager	\$166.00
5		Certified Payroll Compliance	\$145.00
6			
7			
8			
9			
10			
11			
12			

**Sub-Consultants: CPM Partners**

	<u>NAME/FIRM</u>	<u>TITLE</u>	<u>HOURLY RATE</u>
1	CPM Partners,	RE, Sr. Scheduler, Sr. Claims	\$240.00
2	Encinitas, CA	RE, Inspector	\$233.00
3	Names of staff not required	ARE, Inspector	\$224.00
4	per Addendum No. 2	OE, Inspector	\$224.00
5	Q&A set.	Scheduler, Claims Support	\$181.00

**Expenses**

	<u>DESCRIPTION</u>	<u>COST</u>	<u>% MARKUP</u>
1	Only Where Allowable per Contract		10%
2			
3			
4			
5			

**MASTER AGREEMENT FOR AS-NEEDED VERTICAL CONSTRUCTION MANAGEMENT AND INSPECTION  
SCHNEIDER CM, INC.**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2025, but effective August 18, 2025, by and between the Carlsbad Municipal Water District, a Public Agency organized under the Municipal Water Act of 1911, and a Subsidiary District of the City of Carlsbad, California ("CMWD"), and Schneider CM, Inc., a California corporation ("Contractor").

**RECITALS**

- A. CMWD requires the professional services of a consultant that is experienced in construction management and inspection for vertical projects.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to as-needed vertical construction management and inspection.
- D. Contractor has submitted a proposal to CMWD responsive to Request for Qualifications RFQ25-3671CMI and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, CMWD and Contractor agree as follows:

**1. SCOPE OF WORK**

CMWD retains Contractor to perform, and Contractor agrees to render those services ("Services") that are defined in attached Exhibit "A," which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California Area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective from the date first above written to Aug. 17, 2028. The Executive Manager may amend the Agreement to extend it for two (2) additional one (1) year periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, CMWD needs, and appropriation of funds by the CMWD Board of Directors. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by CMWD and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the Executive Manager or General

Manager as authorized by the Executive Manager. The Executive Manager or General Manager will give allowance for documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight on the part of Contractor, or delays caused by CMWD inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed eight hundred thousand dollars (\$800,000) per Agreement year. If the City elects to extend the Agreement pursuant to Section 3, the costs of services may increase by a maximum of 2% per Agreement year, if agreed to by both parties. Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, CMWD shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for CMWD, the Executive Manager or General Manager, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor or subconsultant performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code section 1725.5. California Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work, unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize CMWD's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team



dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. Contractor is required to create a free web-based Procore user account(s) and utilize web-based training/tutorials (as needed) to become familiar with the system. Unless the City of Carlsbad City Engineer approves otherwise, Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, requests for information, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve the contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

#### **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of CMWD. Contractor will be under the control of CMWD only as to the result to be accomplished, but will consult with CMWD as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of CMWD for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. CMWD will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. CMWD will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify CMWD and the City of Carlsbad within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which CMWD may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At CMWD's election, CMWD may deduct the indemnification amount from any balance owing to Contractor.

#### **9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated, and the results will be considered for future task orders or agreements.

#### **10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of CMWD. If Contractor subcontracts any of the Services, Contractor will be fully responsible to CMWD for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the

subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and CMWD. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by CMWD.

#### **11. OTHER CONTRACTORS**

CMWD reserves the right to employ other Contractors in connection with the Services.

#### **12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by CMWD), indemnify and hold harmless CMWD and the City of Carlsbad and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorney's fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense CMWD or the City of Carlsbad incurs or makes to or on behalf of an injured employee under CMWD's self-administered workers' compensation is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

#### **13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current Best's Key Rating of not less than "A-:VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

**13.1 Coverages and Limits.** Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect

Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to CMWD's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 CMWD will be named as an additional insured on General Liability which shall provide primary coverage to CMWD.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to CMWD sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to CMWD's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to CMWD.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then CMWD will have the option to declare Contractor in breach or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by CMWD to obtain or maintain insurance and CMWD may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. CMWD reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

14. **BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

15. **ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of CMWD during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

16. **OWNERSHIP OF DOCUMENTS**

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of CMWD. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to CMWD. Contractor will have the right to make one (1) copy of the work product for Contractor’s records.

17. **COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in CMWD and Contractor relinquishes all claims to the copyrights in favor of CMWD.

18. **NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of CMWD and on behalf of Contractor under this Agreement.

For CMWD:

Name	Jennifer Chapman
Title	Senior Contract Administrator
Dept	Public Works/CM&I
<u>CARLSBAD MUNICIPAL WATER DISTRICT</u>	
Address	1635 Faraday Ave.
	Carlsbad, CA 92008
Phone	442-339-2780

For Contractor:

Name	Robert Polley
Title	Project Manager
Address	6353 El Camino Real, Ste C
	Carlsbad, CA 92009
Phone	760-717-0535
Email	<a href="mailto:Robert.polley@schneidercm.net">Robert.polley@schneidercm.net</a>

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

19. **GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and

regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

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Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, CMWD will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any agreement claim submitted to CMWD must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to CMWD, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If CMWD seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTION AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon CMWD and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of CMWD, which shall not be unreasonably withheld.

**28. THIRD PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the CMWD and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and

understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}

CONTRACTOR  
SCHNEIDER CM, INC., a California corporation

CARLSBAD MUNICIPAL WATER DISTRICT, a  
Public Agency organized under the Municipal  
Water Act of 1911, and a Subsidiary District of  
the City of Carlsbad

By:

Carl Schneider

(sign here)

Carl Schneider,  
President and Chief Financial Officer

(print name/title)

By:

(sign here)

(print name/title)

By:

KEITH BLACKBURN, President

ATTEST:

SHERRY FREISINGER, Secretary

By:

Director of Constituent & Clerk Services

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

Group A

Chairman,  
President, **or**  
Vice-President

Group B

Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, General Counsel

By:

Cindie K. McMahon



**EXHIBIT A**

**SCOPE OF SERVICES AND FEE**

Contractor shall perform as-needed vertical construction management and inspection services in accordance with the city's Request for Qualifications (RFQ25-3671CMI) dated March 5, 2025. The agreed upon billing rates for services outlined in said proposal are attached hereto.

All hours billed will be paid at a straight time rate; no overtime billing allowed.

Hours billed on a non-contractor workday must receive prior authorization by city staff.

Rates are inclusive of equipment, vehicle, mileage, laptop computers with wireless connections, cell phone, insurance, travel time, etc.

Category	Hourly Rate
Senior Construction Manager (with CCM credential, e.g., Robert Polley)	\$212
Construction Manager/Field Engineer (without CCM credential)	\$190
Project Administrative Support	\$100
Estimating	\$190
Scheduling	\$190
Firm Principal involvement in the above categories, where required	\$250

Reimbursable Expenses	Cost
Reprographics, as needed	Pass-through, no markup

Quality assurance and inspection are provided by the Senior Construction Manager as outlined above.

Costs are in dollars per hour, fully burdened (inclusive of mileage, travel expenses, all equipment, cell phones, laptops, insurance, and vehicle charges, etc.).

As stipulated in the RFQ, our pricing shall remain firm for the initial three-year term. If the City elects to extend the Agreement, the costs of services can be increased by a maximum of 2% per extension term, if agreed to by both parties.

**MASTER AGREEMENT FOR AS-NEEDED VERTICAL CONSTRUCTION MANAGEMENT AND INSPECTION  
WSP USA, INC.**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2025, but effective August 18, 2025, by and between the Carlsbad Municipal Water District, a Public Agency organized under the Municipal Water Act of 1911, and a Subsidiary District of the City of Carlsbad, California ("CMWD"), and WSP USA, Inc., a New York corporation ("Contractor").

**RECITALS**

- A. CMWD requires the professional services of a consultant that is experienced in construction management and inspection for vertical projects.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to as-needed vertical construction management and inspection.
- D. Contractor has submitted a proposal to CMWD responsive to Request for Qualifications RFQ25-3671CMI and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, CMWD and Contractor agree as follows:

**1. SCOPE OF WORK**

CMWD retains Contractor to perform, and Contractor agrees to render those services ("Services") that are defined in attached Exhibit "A," which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California Area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective from the date first above written to Aug. 17, 2028. The Executive Manager may amend the Agreement to extend it for two (2) additional one (1) year periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, CMWD needs, and appropriation of funds by the CMWD Board of Directors. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by CMWD and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the Executive Manager or General Manager as authorized by the Executive Manager. The Executive Manager or General Manager will give

allowance for documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight on the part of Contractor, or delays caused by CMWD inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed eight hundred thousand dollars (\$800,000) per Agreement year. If the City elects to extend the Agreement pursuant to Section 3, the costs of services may increase by a maximum of 2% per Agreement year, if agreed to by both parties. Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, CMWD shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for CMWD, the Executive Manager or General Manager, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor or subconsultant performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code section 1725.5. California Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work, unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procure Project Management and Collaboration System. This project may utilize CMWD's Procure ([www.procure.com](http://www.procure.com)) online project management and document control platform. The intent of utilizing Procure is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and

decreasing turnaround times. Contractor is required to create a free web-based Procore user account(s) and utilize web-based training/tutorials (as needed) to become familiar with the system. Unless the City of Carlsbad City Engineer approves otherwise, Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, requests for information, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve the contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

#### **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of CMWD. Contractor will be under the control of CMWD only as to the result to be accomplished, but will consult with CMWD as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of CMWD for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. CMWD will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. CMWD will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify CMWD and the City of Carlsbad within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which CMWD may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At CMWD's election, CMWD may deduct the indemnification amount from any balance owing to Contractor.

#### **9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated, and the results will be considered for future task orders or agreements.

#### **10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of CMWD. If Contractor subcontracts any of the Services, Contractor will be fully responsible to CMWD for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor.

Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and CMWD. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by CMWD.

**11. OTHER CONTRACTORS**

CMWD reserves the right to employ other Contractors in connection with the Services.

**12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by CMWD), indemnify and hold harmless CMWD and the City of Carlsbad and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorney's fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense CMWD or the City of Carlsbad incurs or makes to or on behalf of an injured employee under CMWD's self-administered workers' compensation is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

**13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current Best's Key Rating of not less than "A-VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

**13.1 Coverages and Limits.** Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will

obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to CMWD's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 CMWD will be named as an additional insured on General Liability which shall provide primary coverage to CMWD.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to CMWD sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to CMWD's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to CMWD.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then CMWD will have the option to declare Contractor in breach or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by CMWD to obtain or maintain insurance and CMWD may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. CMWD reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

14. **BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

15. **ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of CMWD during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

16. **OWNERSHIP OF DOCUMENTS**

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of CMWD. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to CMWD. Contractor will have the right to make one (1) copy of the work product for Contractor’s records.

17. **COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in CMWD and Contractor relinquishes all claims to the copyrights in favor of CMWD.

18. **NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of CMWD and on behalf of Contractor under this Agreement.

For CMWD:

Name	Jennifer Chapman
Title	Senior Contract Administrator
Dept	Public Works/CM&I
<u>CARLSBAD MUNICIPAL WATER DISTRICT</u>	
Address	1635 Faraday Ave.
	Carlsbad, CA 92008
Phone	442-339-2780

For Contractor:

Name	Andrew Fiscus
Title	Contract Manager
Address	9177 Sky Park Court
	San Diego, CA 92123
Phone	760-505-5475
Email	<a href="mailto:Andrew.fiscus@wsp.com">Andrew.fiscus@wsp.com</a>

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

19. **GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and



regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services, the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or CMWD will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, CMWD may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If CMWD decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, CMWD may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by CMWD and all work in progress to CMWD address contained in this Agreement. CMWD will make a determination of fact based upon the work product delivered to CMWD and of the percentage of work that Contractor has performed which is usable and of worth to CMWD in having the Agreement completed. Based upon that finding CMWD will determine the final payment of the Agreement.

CMWD may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to CMWD. In the event of termination of this Agreement by either party and upon request of CMWD, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to CMWD. Contractor will be paid for work performed to the termination date; however, the total will not exceed

the lump sum fee payable under this Agreement. CMWD will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, CMWD will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any agreement claim submitted to CMWD must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to CMWD, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If CMWD seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTION AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon CMWD and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of CMWD, which shall not be unreasonably withheld.

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The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}

CONTRACTOR

WSP USA, Inc., a New York corporation

CARLSBAD MUNICIPAL WATER DISTRICT, a  
Public Agency organized under the Municipal  
Water Act of 1911, and a Subsidiary District of  
the City of Carlsbad

By:

Andrew Fiscus

(sign here)

By:

KEITH BLACKBURN, President

Andrew Fiscus, Vice President

(print name/title)

ATTEST:

SHERRY FREISINGER, Secretary

By:

(sign here)

By:

Director of Constituent & Clerk Services

(print name/title)

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

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Chairman,  
President, **or**  
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Group B

Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, General Counsel

By:

Cindie K. McMahon

**EXHIBIT A**

**SCOPE OF SERVICES AND FEE**

Contractor shall perform as-needed vertical construction management and inspection services in accordance with the city's Request for Qualifications (RFQ25-3671CMI) dated March 5, 2025. The agreed upon billing rates for services outlined in said proposal are attached hereto.

All hours billed will be paid at a straight time rate; no overtime billing allowed.

Hours billed on a non-contractor workday must receive prior authorization by city staff.

Rates are inclusive of equipment, vehicle, mileage, laptop computers with wireless connections, cell phone, insurance, travel time, etc.

**EXHIBIT A – MASTER AGREEMENT RATE SCHEDULE**

Prices valid through initial Term of Agreement

<b><u>STAFF</u></b>			
	<b><u>NAME</u></b>	<b><u>TITLE</u></b>	<b><u>HOURLY RATE</u></b>
1.	Hopkins, Yvette	Project Manager	\$190.00
2.	Jaffe, Adam	Jr CMRE / Inspector / Material Tester	\$240.00
3.	Corbala, Anna	Jr CMRE / Inspector / Material Tester	\$240.00
4.	Williams, Spencer	Jr CMRE / Inspector / Material Tester	\$240.00
5.	Ramirez, Tony	CMRE / Inspector	\$260.00
6.	Mahmalji, Samir	CMRE / Inspector	\$260.00
7.	Kiepe, Thomas	CMRE / Inspector	\$260.00
8.	Diana, Michael	CMRE / Inspector	\$260.00
9.	Wilson, David	Principal Material Tester	\$295.00
10.	Seyde, Veronica	Senior Environmental Scientist	\$305.00
11.	Packey, Keith	Senior - CMRE / Inspector	\$300.00
12.	Fiscus, Andrew	Contract Manager	\$350.00

<b><u>SUB-CONSULTANTS</u></b>				
	<b><u>NAME</u></b>	<b><u>FIRM</u></b>	<b><u>TITLE</u></b>	<b><u>HOURLY RATE</u></b>
1.	Chris Kelley	Acroscopic	CMRE / Inspector	\$185.00
2.	Christine Willson	Imperium First	Senior Labor Compliance	\$103.00
3.	Christelle Olu-Coker	Imperium First	Labor Compliance Specialist	\$89.00
4.	Robin Wollen	La Salle Sollutions	Construction Inspector	\$235.00
5.	Enrique Castaneda	La Salle Sollutions	CM/RE	\$235.00
6.	Samuel Virgil	La Salle Sollutions	CM/RE	\$235.00
7.	Exavier Aguilar	La Salle Sollutions	CM/RE	\$235.00
8.	Carlos Molina	La Salle Sollutions	CM/RE	\$235.00
9.	Donovan Stacy	La Salle Sollutions	CM/RE	\$235.00

<b><u>EXPENSES</u></b>			
	<b><u>DESCRIPTION</u></b>	<b><u>COST</u></b>	<b><u>% MARKUP</u></b>
1.	WSP Mileage	Included in Hourly Rate	None
2.	Imperium First Mileage	Included in Hourly Rate	None
3.	Acroscopic Mileage	Included in Hourly Rate	None
4.	La Salle Mileage	Included in Hourly Rate	None
5.	Subconsultant Markup		10%

PUBLIC WORKS – REQUEST FOR QUALIFICATIONS RFQ25-3671CMI

2025 Master Agreement Consultant Services for Construction Management &amp; Inspection Services

**MASTER AGREEMENT FOR  
WATER AND RECYCLED WATER PLANNING SERVICES  
EAGLE AERIAL PHOTOGRAPHY, INC. DBA EAGLE AERIAL SOLUTIONS**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of June, 2025, but effective July 1, 2025, by and between the Carlsbad Municipal Water District, a Public Agency organized under the Municipal Water Act of 1911, and a Subsidiary District of the City of Carlsbad, California ("CMWD"), and Eagle Aerial Photography, Inc., a Delaware corporation d.b.a Eagle Aerial Solutions ("Contractor").

**RECITALS**

- A. CMWD requires the professional services of a consultant that is experienced in water and recycled water planning.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to water and recycled water planning.
- D. Contractor has submitted a proposal to CMWD responsive to Request for Qualifications RFQ25-3437CA and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, City and Contractor agree as follows:

**1. SCOPE OF WORK**

CMWD retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A", which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective for a period of three (3) years from July 1, 2025, through June 30, 2028. The Executive Manager may amend the Agreement to extend it for two (2) additional one (1) year(s) periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, CMWD needs, and appropriation of funds by the CMWD Board of Directors. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by CMWD and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may

be granted if requested by Contractor and agreed to in writing by the Executive Manager or General Manager as authorized by the Executive Manager. The Executive Manager or General Manager will give allowance for documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight on the part of Contractor, or delays caused by CMWD inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed five hundred thousand dollars (\$500,000). Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, CMWD shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for CMWD, the Executive Manager or General Manager, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

If CMWD elects to extend the term of the Master Services Agreement, adjustments to the rate schedule may be permitted. Upon receipt of a written request from the Contractor, CMWD may consider approving a rate schedule increase. Rate schedule increases will be considered for each anniversary of the Agreement effective date after the initial three-year term. An increase to the rate schedule will be calculated based on the proceeding 12-month percentage change in the Consumer Price Index, San Diego Area, for All Urban Customers (CPI-U), as reported by the Bureau of Labor Statistics or 5.0%, whichever is lower. If the CPI-U is a negative number, then the rate schedule will not be adjusted for that year. The Contractor must submit a request and justification to increase the rate schedule at least sixty days prior to the anniversary of the effective date, assuming CMWD opt to extend the Master Services Agreement. The justification accompanying the written request should detail the rationale for the requested adjustment, and the requested adjustment amount, supported by relevant documentation (e.g., CPI-U or 5.0%, whichever is less). Approval of rate schedule increase by CMWD must be documented in an amendment to the Agreement.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor



performing any public work under this Agreement to be currently registered with the California Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize the Owner's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. The Contractor is required to create a free web-based Procore user account(s) and utilize web-based training / tutorials (as needed) to become familiar with the system. Unless the Engineer approves otherwise, the Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. The Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of the Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that the Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, RFIs, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

## **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of CMWD. Contractor will be under the control of CMWD only as to the result to be accomplished, but will consult with CMWD as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of CMWD for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. CMWD will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. CMWD will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify CMWD and the City of Carlsbad within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which CMWD may be required to make on behalf of Contractor or any agent,

employee, or subcontractor of Contractor for work done under this Agreement. At CMWD's election, CMWD may deduct the indemnification amount from any balance owing to Contractor.

**9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

**10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of CMWD. If Contractor subcontracts any of the Services, Contractor will be fully responsible to CMWD for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and CMWD. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by CMWD.

**11. OTHER CONTRACTORS**

CMWD reserves the right to employ other Contractors in connection with the Services.

**12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by CMWD), indemnify and hold harmless CMWD and the City of Carlsbad and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense CMWD or the City of Carlsbad incurs or makes to or on behalf of an injured employee under CMWD's self-administered workers' compensation is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

**13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in

connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current Best's Key Rating of not less than "A-VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

13.1 Coverages and Limits. Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability (CGL) Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to CMWD's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 CMWD will be named as an additional insured on General Liability which shall provide primary coverage to CMWD.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it

and will not be canceled without thirty (30) days prior written notice to CMWD sent by certified mail pursuant to the Notice provisions of this Agreement.

**13.3 Providing Certificates of Insurance and Endorsements.** Prior to CMWD's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to CMWD.

**13.4 Failure to Maintain Coverage.** If Contractor fails to maintain any of these insurance coverages, then CMWD will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by CMWD to obtain or maintain insurance and CMWD may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

**13.5 Submission of Insurance Policies.** CMWD reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

#### **14. BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

#### **15. ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of CMWD during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

#### **16. OWNERSHIP OF DOCUMENTS**

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of CMWD. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to CMWD. Contractor will have the right to make one (1) copy of the work product for Contractor's records.

#### **17. COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in CMWD and Contractor relinquishes all claims to the copyrights in favor of CMWD.

#### **18. NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of CMWD and on behalf of Contractor under this Agreement.

##### For CMWD:

Name	<u>Eleida Felix Yackel</u>
Title	<u>Senior Contract Administrator</u>
Dept	<u>Public Works/ Contract Admin</u>

##### For Contractor:

Name	<u>Wayne Tate</u>
Title	<u>President</u>
Address	<u>3333 Michelson Dr #300</u>

	<u>CARLSBAD MUNICIPAL WATER DISTRICT</u>		<u>Irvine, CA 92612</u>
Address	<u>1635 Faraday Ave.</u>	Phone	<u>714-754-7670 #707</u>
	<u>Carlsbad, CA 92008</u>	Email	<u>wtate@eagleaerial.com</u>
Phone	<u>442-339-2767</u>		

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

#### **19. GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

#### **20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

#### **21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

#### **22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or CMWD will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

#### **23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, CMWD may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If CMWD decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, CMWD may terminate this Agreement upon written notice to Contractor. Upon

notification of termination, Contractor has five (5) business days to deliver any documents owned by CMWD and all work in progress to CMWD address contained in this Agreement. CMWD will make a determination of fact based upon the work product delivered to CMWD and of the percentage of work that Contractor has performed which is usable and of worth to CMWD in having the Agreement completed. Based upon that finding CMWD will determine the final payment of the Agreement.

CMWD may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to CMWD. In the event of termination of this Agreement by either party and upon request of CMWD, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to CMWD. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. CMWD will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, CMWD will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any agreement claim submitted to CMWD must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to CMWD, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If CMWD seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon CMWD and Contractor and

their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of CMWD, which shall not be unreasonably withheld.

**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the CMWD and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract, and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}

CONTRACTOR  
EAGLE AERIAL PHOTOGRAPHY, INC., a  
Delaware corporation d.b.a Eagle Aerial  
Solutions

CARLSBAD MUNICIPAL WATER DISTRICT, a  
Public Agency organized under the  
Municipal Water Act of 1911, and a  
Subsidiary District of the City of Carlsbad

By: Wayne Tate  
(sign here)

By: \_\_\_\_\_  
Keith Blackburn, President

Wayne Tate, President & CFO  
(print name/title)

ATTEST:  
SHERRY FREISINGER, Secretary

By: Paul Clark, Secretary  
(sign here)

By: \_\_\_\_\_  
Faviola Medina,  
Director of Constituent & Clerk Services

Paul Clark, Secretary  
(print name/title)

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

**Group A**  
Chairman,  
President, **or**  
Vice-President

**Group B**  
Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, General Counsel

BY: Cindie K. McMahon



**EXHIBIT A****SCOPE OF SERVICES AND FEES**

Perform a variety of water and recycled water planning tasks, as outlined in the individual Project Task Descriptions and Fee Allotments (PTD&FA), related to the following:

- A. Population projection.
- B. Regulatory compliance.
- C. Urban water management plan.
- D. Water shortage contingency plan.
- E. Water use efficiency planning and regulatory support.

Requests for work not listed above must be contracted under separate agreement.

**ATTACHMENT B –MASTER SERVICES AGREEMENT RATE SCHEDULE**

Prices valid through Term of Agreement

<b><u>STAFF</u></b>			
	<b><u>NAME</u></b>	<b><u>TITLE</u></b>	<b><u>HOURLY RATE</u></b>
1.	Matt Schaeffer	Project Manager	\$142.00
2.	Jazmine Molloy	Subject Matter Expert	\$142.00
3.	Norman Woo	Database Expert	\$142.00
4.	Rob Whipple	Subject Matter Expert	\$142.00

<b><u>SUB-CONSULTANTS</u></b>			
	<b><u>NAME/FIRM</u></b>	<b><u>TITLE</u></b>	<b><u>HOURLY RATE</u></b>
1.	Andrew Brenner, PhD—NV5	Land Use/Land Cover Subject Matter Expert	\$175.00
2.	Alexa Ramirez—NV5	Program Manager	\$148.00
3.	Brooke Egley—NV5	GIS Analyst	\$98.00
4.	Xavier Rivera—NV5	GIS Analyst	\$98.00
5.	Christian Gort—NV5	Associate Project Mgr.	\$126.00
6.	Kelsey Watkins—NV5	Remote Sensing Expert	\$126.00
7.	Chris Robinson—NV5	Technical Lead	\$142.00
8.	Cullen Franchino—NV5	Senior Analyst	\$120.00
9.	Maureen Erbeznik—M. Erbeznik & Assoc	Subject Matter Expert	\$125.00
10.	Megan Chery—Environmental Incentives	Implementation Lead	\$200.00
11.	Claire Price —Environmental Incentives	Project Manager	\$185.00
12.	Alexandra Eisinger —Environmental Incentives	Project Assistant	\$142.00
13.	Madeline Blua—Blua Consulting	Urban water mgmt. & drought contingency planning	\$200.00

**MASTER AGREEMENT FOR  
WATER AND RECYCLED WATER ENGINEERING SERVICES  
CAROLLO ENGINEERS, INC.**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of June, 2025, but effective July 1, 2025, by and between the Carlsbad Municipal Water District, a Public Agency organized under the Municipal Water Act of 1911, and a Subsidiary District of the City of Carlsbad, California ("CMWD"), and Carollo Engineers, Inc., a Delaware corporation ("Contractor").

**RECITALS**

- A. CMWD requires the professional services of a consultant that is experienced in water and recycled water engineering.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to water and recycled water engineering services.
- D. Contractor has submitted a proposal to CMWD responsive to Request for Qualifications RFQ25-3437CA and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, CMWD and Contractor agree as follows:

**1. SCOPE OF WORK**

CMWD retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A", which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective for a period of three (3) years from July 1, 2025, through June 30, 2028. The Executive Manager may amend the Agreement to extend it for two (2) additional one (1) year(s) periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, CMWD needs, and appropriation of funds by the CMWD Board of Directors. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by CMWD and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the Executive Manager or General

Manager as authorized by the Executive Manager. The Executive Manager or General Manager will give allowance for documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight on the part of Contractor, or delays caused by CMWD inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed five hundred thousand dollars (\$500,000). Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, CMWD shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for CMWD, the Executive Manager or General Manager, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

If CMWD elects to extend the term of the Master Services Agreement, adjustments to the rate schedule may be permitted. Upon receipt of a written request from the Contractor, CMWD may consider approving a rate schedule increase. Rate schedule increases will be considered for each anniversary of the Agreement effective date after the initial three-year term. An increase to the rate schedule will be calculated based on the proceeding 12-month percentage change in the Consumer Price Index, San Diego Area, for All Urban Customers (CPI-U), as reported by the Bureau of Labor Statistics or 5.0%, whichever is lower. If the CPI-U is a negative number, then the rate schedule will not be adjusted for that year. The Contractor must submit a request and justification to increase the rate schedule at least sixty days prior to the anniversary of the effective date, assuming CMWD opt to extend the Master Services Agreement. The justification accompanying the written request should detail the rationale for the requested adjustment, and the requested adjustment amount, supported by relevant documentation (e.g., CPI-U or 5.0%, whichever is less). Approval of rate schedule increase by CMWD must be documented in an amendment to the Agreement.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California

Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize the Owner's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. The Contractor is required to create a free web-based Procore user account(s) and utilize web-based training / tutorials (as needed) to become familiar with the system. Unless the Engineer approves otherwise, the Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. The Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of the Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that the Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, RFIs, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

## **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of CMWD. Contractor will be under the control of CMWD only as to the result to be accomplished, but will consult with CMWD as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of CMWD for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. CMWD will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. CMWD will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify CMWD and the City of Carlsbad within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which CMWD may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At CMWD's election, CMWD may deduct the indemnification amount from any balance owing to Contractor.

**9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

**10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of CMWD. If Contractor subcontracts any of the Services, Contractor will be fully responsible to CMWD for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and CMWD. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by CMWD.

**11. OTHER CONTRACTORS**

CMWD reserves the right to employ other Contractors in connection with the Services.

**12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by CMWD), indemnify and hold harmless CMWD and the City of Carlsbad and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense CMWD or the City of Carlsbad incurs or makes to or on behalf of an injured employee under CMWD's self-administered workers' compensation is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

**13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and

authorized to do business in the State of California. The insurance carrier is required to have a current Best's Key Rating of not less than "A-VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

13.1 Coverages and Limits. Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to CMWD's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 CMWD will be named as an additional insured on General Liability which shall provide primary coverage to CMWD.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to CMWD sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to CMWD's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to CMWD.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then CMWD will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by CMWD to obtain or maintain insurance and CMWD may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. CMWD reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

#### 14. BUSINESS LICENSE

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

#### 15. ACCOUNTING RECORDS

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of CMWD during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

#### 16. OWNERSHIP OF DOCUMENTS

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of CMWD. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to CMWD. Contractor will have the right to make one (1) copy of the work product for Contractor's records.

#### 17. COPYRIGHTS

Contractor agrees that all copyrights that arise from the services will be vested in CMWD and Contractor relinquishes all claims to the copyrights in favor of CMWD.

#### 18. NOTICES

The name of the persons who are authorized to give written notice or to receive written notice on behalf of CMWD and on behalf of Contractor under this Agreement.

##### For CMWD:

Name	Eleida Felix Yackel
Title	Senior Contract Administrator
Dept	Public Works/ Contract Admin
	<u>CARLSBAD MUNICIPAL WATER DISTRICT</u>
Address	1635 Faraday Ave.

##### For Contractor:

Name	Jeff Weishaar
Title	Vice President
Address	5355 Mira Sorrento Place
	San Diego CA 92121
Phone	8582456081



	Carlsbad, CA 92008	Email	<u>Jweishaar@carollo.com</u>
Phone	<u>442-339-2767</u>		

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

**19. GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or CMWD will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, CMWD may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If CMWD decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, CMWD may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by CMWD and all work in progress to CMWD address contained in this Agreement. CMWD will make a

determination of fact based upon the work product delivered to CMWD and of the percentage of work that Contractor has performed which is usable and of worth to CMWD in having the Agreement completed. Based upon that finding CMWD will determine the final payment of the Agreement.

CMWD may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to CMWD. In the event of termination of this Agreement by either party and upon request of CMWD, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to CMWD. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. CMWD will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, CMWD will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any agreement claim submitted to CMWD must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to CMWD, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If CMWD seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon CMWD and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of CMWD, which shall not be

unreasonably withheld.

**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the CMWD and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract, and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}

CONTRACTOR  
CAROLLO ENGINEERS, INC., a Delaware  
corporation

CARLSBAD MUNICIPAL WATER DISTRICT, a  
Public Agency organized under the  
Municipal Water Act of 1911, and a  
Subsidiary District of the City of Carlsbad

By:

*Jeff Weishaar*

(sign here)

Jeffrey A. Weishaar,  
Associate Vice President

(print name/title)

By:

(sign here)

(print name/title)

By:

Keith Blackburn, President

ATTEST:

SHERRY FREISINGER, Secretary

By:

Faviola Medina,  
Director of Constituent & Clerk Services

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

**Group A**  
Chairman,  
President, **or**  
Vice-President

**Group B**  
Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, General Counsel

BY: *Cindie K. McMahon*

**EXHIBIT A****SCOPE OF SERVICES AND FEES**

Perform a variety of water and recycled water engineering tasks, as outlined in the individual Project Task Descriptions and Fee Allotments (PTD&FA), related to the following:

- A. Assist with recycled water site conversions.
- B. Backflow Prevention Program Support.
- C. Constructability Review and Development Plan Review.
- D. Cross Connection Control Policy Handbook compliance programs.
- E. Dam Instrumentation Monitoring/ Dam Improvements/ Emergency Action Plans.
- F. Design of Pipelines, Pump Stations, Pressure Reducing Stations, Surge Protection Systems, Tanks and Reservoirs.
- G. Optimization Studies for Pump Stations.
- H. Pipeline Rehabilitation.
- I. Recycled Water System Design and Retrofits.
- J. Regulatory Agency Compliance Support/ Reports/ Studies.
- K. Water Loss Evaluation.

Requests for work not listed above must be contracted under separate agreement.

## Water and Recycled Water Engineering Services

### Services Schedule of Hourly Billing Rates

*As of January 1, 2025, California*

	Hourly Rate
<b>Engineers/Scientists</b>	
Assistant Professional	\$180
Design Engineer	\$190
Professional	\$195
Project Engineer	\$215
Project Professional	\$233
Senior Engineer	\$270
Lead Project Professional / Task Order Manager	\$280
Contract Manager	\$298
Senior Professional	\$320
<b>Technicians</b>	
Technicians	\$175
Senior Technicians	\$190
<b>Support Staff</b>	
Document Processing / Clerical	\$160
<b>Other Direct Expenses</b>	
Travel and Subsistence	at cost
Mileage at IRS Reimbursement Rate Effective January 1, 2025	\$.67 per mile
Subconsultant	cost + 5%
Other Direct Cost	cost + 5%
Expert Witness	Rate x 2.0

~~This fee schedule is subject to annual revisions due to labor adjustments.~~

**MASTER AGREEMENT FOR  
WATER AND RECYCLED WATER ENGINEERING SERVICES  
DUDEK**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of June, 2025, but effective July 1, 2025, by and between the Carlsbad Municipal Water District, a Public Agency organized under the Municipal Water Act of 1911, and a Subsidiary District of the City of Carlsbad, California ("CMWD"), and Dudek, a California corporation ("Contractor").

**RECITALS**

- A. CMWD requires the professional services of a consultant that is experienced in water and recycled water engineering.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to water and recycled water engineering services.
- D. Contractor has submitted a proposal to CMWD responsive to Request for Qualifications RFQ25-3437CA and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, CMWD and Contractor agree as follows:

**1. SCOPE OF WORK**

CMWD retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A", which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective for a period of three (3) years from July 1, 2025, through June 30, 2028. The Executive Manager may amend the Agreement to extend it for two (2) additional one (1) year(s) periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, CMWD needs, and appropriation of funds by the CMWD Board of Directors. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by CMWD and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the Executive Manager or General

Manager as authorized by the Executive Manager. The Executive Manager or General Manager will give allowance for documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight on the part of Contractor, or delays caused by CMWD inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed five hundred thousand dollars (\$500,000). Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, CMWD shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for CMWD, the Executive Manager or General Manager, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

If CMWD elects to extend the term of the Master Services Agreement, adjustments to the rate schedule may be permitted. Upon receipt of a written request from the Contractor, CMWD may consider approving a rate schedule increase. Rate schedule increases will be considered for each anniversary of the Agreement effective date after the initial three-year term. An increase to the rate schedule will be calculated based on the proceeding 12-month percentage change in the Consumer Price Index, San Diego Area, for All Urban Customers (CPI-U), as reported by the Bureau of Labor Statistics or 5.0%, whichever is lower. If the CPI-U is a negative number, then the rate schedule will not be adjusted for that year. The Contractor must submit a request and justification to increase the rate schedule at least sixty days prior to the anniversary of the effective date, assuming CMWD opt to extend the Master Services Agreement. The justification accompanying the written request should detail the rationale for the requested adjustment, and the requested adjustment amount, supported by relevant documentation (e.g., CPI-U or 5.0%, whichever is less). Approval of rate schedule increase by CMWD must be documented in an amendment to the Agreement.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California



Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize the Owner's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. The Contractor is required to create a free web-based Procore user account(s) and utilize web-based training / tutorials (as needed) to become familiar with the system. Unless the Engineer approves otherwise, the Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. The Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of the Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that the Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, RFIs, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

## **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of CMWD. Contractor will be under the control of CMWD only as to the result to be accomplished, but will consult with CMWD as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of CMWD for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. CMWD will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. CMWD will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify CMWD and the City of Carlsbad within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which CMWD may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At CMWD's election, CMWD may deduct the indemnification amount from any balance owing to Contractor.

**9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

**10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of CMWD. If Contractor subcontracts any of the Services, Contractor will be fully responsible to CMWD for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and CMWD. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by CMWD.

**11. OTHER CONTRACTORS**

CMWD reserves the right to employ other Contractors in connection with the Services.

**12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by CMWD), indemnify and hold harmless CMWD and the City of Carlsbad and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense CMWD or the City of Carlsbad incurs or makes to or on behalf of an injured employee under CMWD's self-administered workers' compensation is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

**13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and

authorized to do business in the State of California. The insurance carrier is required to have a current Best's Key Rating of not less than "A-VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

13.1 Coverages and Limits. Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to CMWD's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 CMWD will be named as an additional insured on General Liability which shall provide primary coverage to CMWD.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to CMWD sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to CMWD’s execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to CMWD.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then CMWD will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by CMWD to obtain or maintain insurance and CMWD may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. CMWD reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

**14. BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

**15. ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of CMWD during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

**16. OWNERSHIP OF DOCUMENTS**

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of CMWD. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to CMWD. Contractor will have the right to make one (1) copy of the work product for Contractor’s records.

**17. COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in CMWD and Contractor relinquishes all claims to the copyrights in favor of CMWD.

**18. NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of CMWD and on behalf of Contractor under this Agreement.

For CMWD:

Name	Eleida Felix Yackel
Title	Senior Contract Administrator
Dept	Public Works/ Contract Admin
	<u>CARLSBAD MUNICIPAL WATER DISTRICT</u>
Address	1635 Faraday Ave.

For Contractor:

Name	Legal Department
Title	General Counsel
Address	605 Third Street
	Encinitas, CA 92024
Phone	(760) 942- 5147

Carlsbad, CA 92008  
Phone 442-339-2767

Email [legal@dudek.com](mailto:legal@dudek.com)

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

**19. GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or CMWD will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, CMWD may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If CMWD decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, CMWD may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by CMWD and all work in progress to CMWD address contained in this Agreement. CMWD will make a

determination of fact based upon the work product delivered to CMWD and of the percentage of work that Contractor has performed which is usable and of worth to CMWD in having the Agreement completed. Based upon that finding CMWD will determine the final payment of the Agreement.

CMWD may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to CMWD. In the event of termination of this Agreement by either party and upon request of CMWD, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to CMWD. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. CMWD will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, CMWD will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any agreement claim submitted to CMWD must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to CMWD, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If CMWD seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon CMWD and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of CMWD, which shall not be

unreasonably withheld.

**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the CMWD and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract, and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}

CONTRACTOR  
DUDEK, a California corporation

CARLSBAD MUNICIPAL WATER DISTRICT, a  
Public Agency organized under the  
Municipal Water Act of 1911, and a  
Subsidiary District of the City of Carlsbad

By:

*Joseph Monaco*

(sign here)

Joseph Monaco, President

(print name/title)

By:

*Amy Paul*

(sign here)

Amy M. Paul, Secretary

(print name/title)

By:

Keith Blackburn, President

ATTEST:

SHERRY FREISINGER, Secretary

By:

Faviola Medina,  
Director of Constituent & Clerk Services

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

**Group A**

Chairman,  
President, **or**  
Vice-President

**Group B**

Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, General Counsel

BY:

*Cindie K. McMahon*



**EXHIBIT A****SCOPE OF SERVICES AND FEES**

Perform a variety of water and recycled water engineering tasks, as outlined in the individual Project Task Descriptions and Fee Allotments (PTD&FA), related to the following:

- A. Assist with recycled water site conversions.
- B. Backflow Prevention Program Support.
- C. Constructability Review and Development Plan Review.
- D. Cross Connection Control Policy Handbook compliance programs.
- E. Dam Instrumentation Monitoring/ Dam Improvements/ Emergency Action Plans.
- F. Design of Pipelines, Pump Stations, Pressure Reducing Stations, Surge Protection Systems, Tanks and Reservoirs.
- G. Optimization Studies for Pump Stations.
- H. Pipeline Rehabilitation.
- I. Recycled Water System Design and Retrofits.
- J. Regulatory Agency Compliance Support/ Reports/ Studies.
- K. Water Loss Evaluation.

Requests for work not listed above must be contracted under separate agreement.

# Master Services Agreement Rate Schedule

Table 1, Table 2, and Table 3 details our proposed rate schedule.

**Table 1. Dudek Staff**

Name	Title	Hourly Rate
Russ Bergholz, PE	Contract Manager	\$315
Kate Palmer, PE	Pipelines	\$290
Joe Schnieder, PE	Electrical Upgrades and Optimization	\$265
Neil Harper, PE	Constructability Review	\$300
Brandon Lacap, PE	Booster Station Design	\$275
Amanda Combs, PE	Pipeline Rehabilitation	\$290
Elizabeth Caliva, PE	Pipeline Rehabilitation	\$290
Alex Hardy	Regulatory Agency Compliance/Support/Reports/Studies	\$250

**Table 2. Subconsultants**

Name/Firm	Title	Hourly Rate
Justin Pallamary, PLS, NV5 Global Inc.	Senior Project Manager	\$235
Joel Paulson, PLS, GISP, NV5 Global Inc.	Senior Project Manager	\$235
Carl Henderson, PhD, PE, GE, NV5 Global Inc.	Senior Principal Engineer	\$245
Paul Cunningham, PE, GE, NV5 Global Inc.	Senior Engineer	\$185
Joe Rodriguez, EIT, NV5 Global Inc.	Senior Staff Engineer	\$135
Scott Foster (Scott Foster Engineering Inc.)	Principal Engineer	\$270
Gabriel Mercado, AirX Utility Surveyors	Operations Manager	\$205
Rodrigo Rodriguez, AirX Utility Surveyors	Project Manager	\$205
Clinton Boogaard, AirX Utility Surveyors	Traffic Control Manager	\$130

**Table 3. Expenses**

Description	Cost	% Markup
Mileage	\$0.67/mile	0%
Printing Services (D-size sheets)	\$4/sheet	0%

**MASTER AGREEMENT FOR  
WATER AND RECYCLED WATER ENGINEERING SERVICES  
WATER SYSTEMS CONSULTING, INC.**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of June, 2025, but effective July 1, 2025, by and between the Carlsbad Municipal Water District, a Public Agency organized under the Municipal Water Act of 1911, and a Subsidiary District of the City of Carlsbad, California ("CMWD"), and Water Systems Consulting, Inc., a California corporation ("Contractor").

**RECITALS**

- A. CMWD requires the professional services of a consultant that is experienced in water and recycled water engineering.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to water and recycled water engineering services.
- D. Contractor has submitted a proposal to CMWD responsive to Request for Qualifications RFQ25-3437CA and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, CMWD and Contractor agree as follows:

**1. SCOPE OF WORK**

CMWD retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A", which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective for a period of three (3) years from July 1, 2025, through June 30, 2028. The Executive Manager may amend the Agreement to extend it for two (2) additional one (1) year(s) periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, CMWD needs, and appropriation of funds by the CMWD Board of Directors. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by CMWD and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the Executive Manager or General

Manager as authorized by the Executive Manager. The Executive Manager or General Manager will give allowance for documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight on the part of Contractor, or delays caused by CMWD inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed five hundred thousand dollars (\$500,000). Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, CMWD shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for CMWD, the Executive Manager or General Manager, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

If CMWD elects to extend the term of the Master Services Agreement, adjustments to the rate schedule may be permitted. Upon receipt of a written request from the Contractor, CMWD may consider approving a rate schedule increase. Rate schedule increases will be considered for each anniversary of the Agreement effective date after the initial three-year term. An increase to the rate schedule will be calculated based on the proceeding 12-month percentage change in the Consumer Price Index, San Diego Area, for All Urban Customers (CPI-U), as reported by the Bureau of Labor Statistics or 5.0%, whichever is lower. If the CPI-U is a negative number, then the rate schedule will not be adjusted for that year. The Contractor must submit a request and justification to increase the rate schedule at least sixty days prior to the anniversary of the effective date, assuming CMWD opt to extend the Master Services Agreement. The justification accompanying the written request should detail the rationale for the requested adjustment, and the requested adjustment amount, supported by relevant documentation (e.g., CPI-U or 5.0%, whichever is less). Approval of rate schedule increase by CMWD must be documented in an amendment to the Agreement.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California

Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize the Owner's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. The Contractor is required to create a free web-based Procore user account(s) and utilize web-based training / tutorials (as needed) to become familiar with the system. Unless the Engineer approves otherwise, the Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. The Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of the Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that the Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, RFIs, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

## **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of CMWD. Contractor will be under the control of CMWD only as to the result to be accomplished, but will consult with CMWD as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of CMWD for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. CMWD will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. CMWD will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify CMWD and the City of Carlsbad within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which CMWD may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At CMWD's election, CMWD may deduct the indemnification amount from any balance owing to Contractor.

**9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

**10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of CMWD. If Contractor subcontracts any of the Services, Contractor will be fully responsible to CMWD for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and CMWD. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by CMWD.

**11. OTHER CONTRACTORS**

CMWD reserves the right to employ other Contractors in connection with the Services.

**12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by CMWD), indemnify and hold harmless CMWD and the City of Carlsbad and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense CMWD or the City of Carlsbad incurs or makes to or on behalf of an injured employee under CMWD's self-administered workers' compensation is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

**13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and

authorized to do business in the State of California. The insurance carrier is required to have a current Best's Key Rating of not less than "A-VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

13.1 Coverages and Limits. Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to CMWD's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 CMWD will be named as an additional insured on General Liability which shall provide primary coverage to CMWD.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to CMWD sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to CMWD’s execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to CMWD.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then CMWD will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by CMWD to obtain or maintain insurance and CMWD may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. CMWD reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

14. **BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

15. **ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of CMWD during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

16. **OWNERSHIP OF DOCUMENTS**

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of CMWD. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to CMWD. Contractor will have the right to make one (1) copy of the work product for Contractor’s records.

17. **COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in CMWD and Contractor relinquishes all claims to the copyrights in favor of CMWD.

18. **NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of CMWD and on behalf of Contractor under this Agreement.

For CMWD:

Name	Eleida Felix Yackel
Title	Senior Contract Administrator
Dept	Public Works/ Contract Admin
	<u>CARLSBAD MUNICIPAL WATER DISTRICT</u>
Address	1635 Faraday Ave.

For Contractor:

Name	Jon Ganz
Title	Vice President
Address	<u>3602 Inland Empire Blvd., #C230</u>
	<u>Ontario, CA 91764</u>
Phone	<u>310-699-3128</u>



Carlsbad, CA 92008  
Phone 442-339-2767

Email [jganz@wsc-inc.com](mailto:jganz@wsc-inc.com)

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

**19. GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or CMWD will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, CMWD may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If CMWD decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, CMWD may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by CMWD and all work in progress to CMWD address contained in this Agreement. CMWD will make a

determination of fact based upon the work product delivered to CMWD and of the percentage of work that Contractor has performed which is usable and of worth to CMWD in having the Agreement completed. Based upon that finding CMWD will determine the final payment of the Agreement.

CMWD may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to CMWD. In the event of termination of this Agreement by either party and upon request of CMWD, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to CMWD. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. CMWD will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, CMWD will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any agreement claim submitted to CMWD must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to CMWD, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If CMWD seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon CMWD and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of CMWD, which shall not be

unreasonably withheld.

**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the CMWD and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract, and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}

CONTRACTOR  
WATER SYSTEMS CONSULTING, INC., a  
California corporation

CARLSBAD MUNICIPAL WATER DISTRICT, a  
Public Agency organized under the  
Municipal Water Act of 1911, and a  
Subsidiary District of the City of Carlsbad

By:



(sign here)

Jeffrey Mitchell Szytel, President  
(print name/title)

By:



(sign here)

Jeroen Olthof, CFO and Secretary  
(print name/title)

By:

Keith Blackburn, President

ATTEST:

SHERRY FREISINGER, Secretary

By:

Faviola Medina,  
Director of Constituent & Clerk Services

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

**Group A**  
Chairman,  
President, **or**  
Vice-President

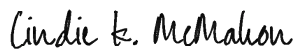
**Group B**  
Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, General Counsel

BY:



**EXHIBIT A****SCOPE OF SERVICES AND FEES**

Perform a variety of water and recycled water engineering tasks, as outlined in the individual Project Task Descriptions and Fee Allotments (PTD&FA), related to the following:

- A. Assist with recycled water site conversions.
- B. Backflow Prevention Program Support.
- C. Constructability Review and Development Plan Review.
- D. Cross Connection Control Policy Handbook compliance programs.
- E. Dam Instrumentation Monitoring/ Dam Improvements/ Emergency Action Plans.
- F. Design of Pipelines, Pump Stations, Pressure Reducing Stations, Surge Protection Systems, Tanks and Reservoirs.
- G. Optimization Studies for Pump Stations.
- H. Pipeline Rehabilitation.
- I. Recycled Water System Design and Retrofits.
- J. Regulatory Agency Compliance Support/ Reports/ Studies.
- K. Water Loss Evaluation.

Requests for work not listed above must be contracted under separate agreement.

**2025-2028 Classifications and Rates**

	Hourly Rate
<b>Engineers / Project Managers / Planners / Hydrogeologists</b>	
Engineering Intern	\$ 159.10
Assistant	\$ 182.75
Staff I	\$ 193.50
Staff II	\$ 205.33
Staff III	\$ 217.15
Associate I	\$ 234.35
Associate II	\$ 247.25
Associate III	\$ 258.00
Senior I	\$ 287.03
Senior II	\$ 299.93
Senior III	\$ 323.58
Principal I	\$ 323.58
Principal II	\$ 323.58
Principal III	\$ 323.58
<b>Outreach and Communications</b>	
Communications Support I	\$ 164.48
Communications Support II	\$ 182.75
Communications Support III	\$ 211.78
Communication Strategist I	\$ 247.25
Communication Strategist II	\$ 276.28
Communication Strategist III	\$ 299.93
Senior Communication Strategist I	\$ 323.58
Senior Communication Strategist II	\$ 323.58
Senior Communication Strategist III	\$ 323.58
<b>CAD / Design Services</b>	
Technician/Designer I	\$ 169.85
Technician/Designer II	\$ 199.95
Technician/Designer III	\$ 223.60
<b>Inspection Services</b>	
Inspector I	\$ 176.30
Inspector II	\$ 188.13
Inspector III	\$ 217.15
Inspector (Prevailing Wage)	\$ 223.60
<b>Administrative Services</b>	
Administration/Clerical I	\$ 164.48
Administration/Clerical II	\$ 176.30
Administration/Clerical III	\$ 199.95

**Other Expenses**

5% mark-up on direct expenses and for sub-contracted services

Standard mileage rate \$0.65 per mile (or current Federal Mileage Reimbursement Rate)

~~Rates are subject to revision as of January 1 each year.~~

**MASTER AGREEMENT FOR  
WATER AND WASTEWATER ASSET MANAGEMENT SERVICES  
HDR ENGINEERING, INC.**

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of June, 2025, but effective July 1, 2025, by and between the Carlsbad Municipal Water District, a Public Agency organized under the Municipal Water Act of 1911, and a Subsidiary District of the City of Carlsbad, California ("CMWD"), and HDR Engineering, Inc., a Nebraska corporation ("Contractor").

**RECITALS**

- A. CMWD requires the professional services of a consultant that is experienced in water and wastewater asset management services.
- B. The professional services are required on a non-exclusive, project-by-project basis.
- C. Contractor has the necessary experience in providing professional services and advice related to water and wastewater asset management services.
- D. Contractor has submitted a proposal to CMWD responsive to Request for Qualifications RFQ25-3437CA and has affirmed its willingness and ability to perform such work as outlined in the Request for Qualifications.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained in this Agreement, CMWD and Contractor agree as follows:

**1. SCOPE OF WORK**

CMWD retains Contractor to perform, and Contractor agrees to render, those services ("Services") that are defined in attached Exhibit "A", which is incorporated by this reference in accordance with this Agreement's terms and conditions.

Contractor's obligations with respect to any project granted to Contractor under this Agreement will be as specified in the Task Description for the project (see paragraph 5 below).

**2. STANDARD OF PERFORMANCE**

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

**3. TERM**

The term of this Agreement will be effective for a period of three (3) years from July 1, 2025, through June 30, 2028. The Executive Manager may amend the Agreement to extend it for two (2) additional one (1) year(s) periods or parts of a year. Extensions will be based upon a satisfactory review of Contractor's performance, CMWD needs, and appropriation of funds by the CMWD Board of Directors. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

**4. PROGRESS AND COMPLETION**

The work for any project granted to Contractor pursuant to this Agreement will begin within ten (10) days after receipt of notification to proceed by CMWD and be completed within the time specified in the Task Description for the project (see paragraph 5 below). Extensions of time for a specific Task Description may be granted if requested by Contractor and agreed to in writing by the Executive Manager or General

Manager as authorized by the Executive Manager. The Executive Manager or General Manager will give allowance for documented and substantiated unforeseeable and unavoidable delays not caused by a lack of foresight on the part of Contractor, or delays caused by CMWD inaction or other agencies' lack of timely action. In no event shall a specific Task Description exceed the term of this Agreement.

## **5. COMPENSATION**

The cumulative total for all projects allowed pursuant to this Agreement will not exceed five hundred thousand dollars (\$500,000). Fees will be paid on a project-by-project basis and will be based on Contractor's Schedule of Rates specified in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A". Payment terms are Net 30 unless otherwise provided in Exhibit "A" or agreed to in writing by the parties. Prior to initiation of any project work by Contractor, CMWD shall prepare a Project Task Description and Fee Allotment ("Task Description") which, upon signature by Contractor and for CMWD, the Executive Manager or General Manager, will be considered a part of this Agreement. The Task Description will include a detailed scope of services for the particular project being considered and a statement of Contractor's fee to complete the project in accordance with the specified scope of services. The Task Description will also include a description of the method of payment and will be based upon an hourly rate, percentage of project complete, completion of specific project tasks or a combination of these.

If CMWD elects to extend the term of the Master Services Agreement, adjustments to the rate schedule may be permitted. Upon receipt of a written request from the Contractor, CMWD may consider approving a rate schedule increase. Rate schedule increases will be considered for each anniversary of the Agreement effective date after the initial three-year term. An increase to the rate schedule will be calculated based on the proceeding 12-month percentage change in the Consumer Price Index, San Diego Area, for All Urban Customers (CPI-U), as reported by the Bureau of Labor Statistics or 5.0%, whichever is lower. If the CPI-U is a negative number, then the rate schedule will not be adjusted for that year. The Contractor must submit a request and justification to increase the rate schedule at least sixty days prior to the anniversary of the effective date, assuming CMWD opt to extend the Master Services Agreement. The justification accompanying the written request should detail the rationale for the requested adjustment, and the requested adjustment amount, supported by relevant documentation (e.g., CPI-U or 5.0%, whichever is less). Approval of rate schedule increase by CMWD must be documented in an amendment to the Agreement.

## **6. PUBLIC WORKS**

6.1 Prevailing Wage Rates. Any construction, alteration, demolition, repair, and maintenance work, including work performed during design and preconstruction such as inspection and land surveying work, cumulatively exceeding \$1,000 and performed under this Agreement constitute "public works" under California Labor Code Section 1720 et seq. and are subject to state prevailing wage laws. The general prevailing rate of wages, for each craft or type of worker needed to execute the contract, shall be those as determined by the Director of Industrial Relations pursuant to the Section 1770, 1773 and 1773.1 of the California Labor Code. Pursuant to Section 1773.2 of the California Labor Code, a current copy of applicable wage rates is on file in the office of the City Engineer. Contractor shall not pay less than the specified prevailing rates of wages to all such workers employed by Contractor in the execution of the Agreement. Contractor and any subcontractors shall comply with Section 1776 of the California Labor Code, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require any subcontractors to comply with Section 1776.

6.2 DIR Registration. California Labor Code Section 1725.5 requires the Contractor and any subcontractor performing any public work under this Agreement to be currently registered with the California



Department of Industrial Relations (DIR), as specified in California Labor Code Section 1725.5. California Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. Prior to the performance of public work by any subcontractor under this Agreement, Contractor must furnish City with the subcontractor's current DIR registration number.

## **7. CONSTRUCTION MANAGEMENT SOFTWARE**

Procore Project Management and Collaboration System. This project may utilize the Owner's Procore ([www.procore.com](http://www.procore.com)) online project management and document control platform. The intent of utilizing Procore is to reduce cost and schedule risk, improve quality and safety, and maintain a healthy team dynamic by improving information flow, reducing non-productive activities, reducing rework and decreasing turnaround times. The Contractor is required to create a free web-based Procore user account(s) and utilize web-based training / tutorials (as needed) to become familiar with the system. Unless the Engineer approves otherwise, the Contractor shall process all project documents through Procore because this platform will be used to submit, track, distribute and collaborate on project. If unfamiliar or not otherwise trained with Procore, Contractor and applicable team members shall complete a free training certification course located at <http://learn.procore.com/procore-certification-subcontractor>. The Contractor is responsible for attaining their own Procore support, as needed, either through the online training or reaching out to the Procore support team. It will be the responsibility of the Contractor to regularly check Procore and review updated documents as they are added. There will be no cost to the Contractor for use of Procore.

It is recommended that the Contractor provide mobile access for Windows, iOS located at <https://apps.apple.com/us/app/procore-construction-management/id374930542> or Android devices located at <https://play.google.com/store/apps/details?id=com.procore.activities> with the Procore App installed to at least one on-site individual to provide real-time access to current posted drawings, specifications, RFIs, submittals, schedules, change orders, project documents, as well as any deficient observations or punch list items. Providing mobile access will improve communication, efficiency, and productivity for all parties. The use of Procore for project management does not relieve Contractor of any other requirements as may be specified in this Agreement or Task Descriptions.

## **8. STATUS OF CONTRACTOR**

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of CMWD. Contractor will be under the control of CMWD only as to the result to be accomplished, but will consult with CMWD as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of CMWD for any purposes.

The payment made to Contractor pursuant to this Agreement will be the full and complete compensation to which Contractor is entitled. CMWD will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. CMWD will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify CMWD and the City of Carlsbad within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which CMWD may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At CMWD's election, CMWD may deduct the indemnification amount from any balance owing to Contractor.

**9. CONTRACTOR EVALUATIONS**

Work performed under this Master Services Agreement may be subject to the City's contractor evaluation program. Prior to the release of any task orders, the Contractor will be notified of the program requirements and will receive a copy of the evaluation criteria and process. The Contractor's performance may be evaluated and the results will be considered for future task orders or agreements.

**10. SUBCONTRACTING**

Contractor will not subcontract any portion of the Services without prior written approval of CMWD. If Contractor subcontracts any of the Services, Contractor will be fully responsible to CMWD for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and CMWD. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by CMWD.

**11. OTHER CONTRACTORS**

CMWD reserves the right to employ other Contractors in connection with the Services.

**12. INDEMNIFICATION**

Contractor agrees to defend (with counsel approved by CMWD), indemnify and hold harmless CMWD and the City of Carlsbad and its officers, elected and appointed officials, employees and volunteers from and against all claims, damages, losses and expenses including attorneys fees arising out of the performance of the work described in this Agreement and Task Descriptions caused by any willful misconduct or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under California Civil Code Section 2782.8), then, and only to the extent required by California Civil Code Section 2782.8, which is fully incorporated in this Agreement, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction. Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

The parties expressly agree that any payment, attorneys fee, cost or expense CMWD or the City of Carlsbad incurs or makes to or on behalf of an injured employee under CMWD's self-administered workers' compensation is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

**13. INSURANCE**

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and

authorized to do business in the State of California. The insurance carrier is required to have a current Best's Key Rating of not less than "A-VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

13.1 Coverages and Limits. Contractor will maintain the types of coverages and minimum limits indicated below, unless Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

13.1.1 Commercial General Liability Insurance. Insurance written on an "occurrence" basis, including personal and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

13.1.2 Automobile Liability. (If the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

13.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to CMWD's satisfaction, a declaration stating this.

13.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

13.2. Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

13.2.1 CMWD will be named as an additional insured on General Liability which shall provide primary coverage to CMWD.

13.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

13.2.3 If Contractor maintains higher limits than the minimums shown above, the City requires and will be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage will be available to the City."

13.2.4 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to CMWD sent by certified mail pursuant to the Notice provisions of this Agreement.

13.3 Providing Certificates of Insurance and Endorsements. Prior to CMWD’s execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to CMWD.

13.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then CMWD will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by CMWD to obtain or maintain insurance and CMWD may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

13.5 Submission of Insurance Policies. CMWD reserves the right to require, at anytime, complete and certified copies of any or all required insurance policies and endorsements.

14. **BUSINESS LICENSE**

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

15. **ACCOUNTING RECORDS**

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of CMWD during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

16. **OWNERSHIP OF DOCUMENTS**

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of CMWD. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to CMWD. Contractor will have the right to make one (1) copy of the work product for Contractor’s records.

17. **COPYRIGHTS**

Contractor agrees that all copyrights that arise from the services will be vested in CMWD and Contractor relinquishes all claims to the copyrights in favor of CMWD.

18. **NOTICES**

The name of the persons who are authorized to give written notice or to receive written notice on behalf of CMWD and on behalf of Contractor under this Agreement.

For CMWD:

Name	Eleida Felix Yackel
Title	Senior Contract Administrator
Dept	Public Works/ Contract Admin
	<u>CARLSBAD MUNICIPAL WATER DISTRICT</u>
Address	1635 Faraday Ave.

For Contractor:

Name	Anna Lantin
Title	Vice President
Address	3220 El Camino Real, Suite 200
	Irvine, CA 92620
Phone	714 730 2300

	Carlsbad, CA 92008	Email	
Phone	442-339-2767		anna.lantin@hdrinc.com

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

**19. GENERAL COMPLIANCE WITH LAWS**

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

**20. CALIFORNIA AIR RESOURCES BOARD (CARB) ADVANCED CLEAN FLEETS REGULATIONS**

Contractor's vehicles with a gross vehicle weight rating greater than 8,500 lbs. and light-duty package delivery vehicles operated in California may be subject to the California Air Resources Board (CARB) Advanced Clean Fleets regulations. Such vehicles may therefore be subject to requirements to reduce emissions of air pollutants. For more information, please visit the CARB Advanced Clean Fleets webpage at <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

**21. DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED**

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination, harassment, and retaliation.

**22. DISPUTE RESOLUTION**

If a dispute should arise regarding the performance of the Services the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or CMWD will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

**23. TERMINATION**

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, CMWD may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If CMWD decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, CMWD may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by CMWD and all work in progress to CMWD address contained in this Agreement. CMWD will make a

determination of fact based upon the work product delivered to CMWD and of the percentage of work that Contractor has performed which is usable and of worth to CMWD in having the Agreement completed. Based upon that finding CMWD will determine the final payment of the Agreement.

CMWD may terminate this Agreement by tendering thirty (30) days written notice to Contractor. Contractor may terminate this Agreement by tendering thirty (30) days written notice to CMWD. In the event of termination of this Agreement by either party and upon request of CMWD, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to CMWD. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. CMWD will make the final determination as to the portions of tasks completed and the compensation to be made.

**24. COVENANTS AGAINST CONTINGENT FEES**

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, CMWD will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

**25. CLAIMS AND LAWSUITS**

By signing this Agreement, Contractor agrees that any agreement claim submitted to CMWD must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to CMWD, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code Section 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If CMWD seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

**26. JURISDICTIONS AND VENUE**

This Agreement shall be interpreted in accordance with the laws of the State of California without regard to, or application of, choice of law rules or principles. Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

**27. SUCCESSORS AND ASSIGNS**

It is mutually understood and agreed that this Agreement will be binding upon CMWD and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of CMWD, which shall not be

unreasonably withheld.

**28. THIRD-PARTY RIGHTS**

Nothing in this Agreement should be construed to give any rights or benefits to any party other than the CMWD and Contractor.

**29. ENTIRE AGREEMENT**

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties. This Agreement may be executed in counterparts.

**30. PUBLIC AGENCY CLAUSE**

Contractor agrees that any public agency as defined by Cal. Gov. Code section 6500, if authorized by its governing body, shall have the option to participate in this contract at the same prices, terms, and conditions. If another public agency chooses to participate, the term shall be for the term of this contract, and shall be contingent upon Contractor's acceptance. Participating public agencies shall be solely responsible for the placing of orders, arranging for delivery and/or services, and making payments to the Contractor. The City of Carlsbad and Carlsbad Municipal Water District shall not be liable, or responsible, for any obligations, including but not limited to financial responsibility, in connection with participation by another public agency.

**31. AUTHORITY**

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

{signatures on following page}

CONTRACTOR  
HDR ENGINEERING, INC., a Nebraska  
corporation

By:

*Anna Lantin*

(sign here)

Anna Y. Lantin, Vice President

(print name/title)

By:

(sign here)

(print name/title)

CARLSBAD MUNICIPAL WATER DISTRICT, a  
Public Agency organized under the  
Municipal Water Act of 1911, and a  
Subsidiary District of the City of Carlsbad

By:

Keith Blackburn, President

ATTEST:

SHERRY FREISINGER, Secretary

By:

Faviola Medina,  
Director of Constituent & Clerk Services

Proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

**Group A**

Chairman,  
President, **or**  
Vice-President

**Group B**

Secretary,  
Assistant Secretary,  
CFO **or** Assistant Treasurer

**Otherwise**, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CINDIE K. McMAHON, General Counsel

BY:

*Cindie K. McMahon*



**EXHIBIT A****SCOPE OF SERVICES AND FEES**

Perform a variety of tasks related to water and wastewater asset management, as outlined in the individual Project Task Descriptions and Fee Allotments (PTD&FA), including but not limited to the following:

- A. Capital planning software use, configuration and support.
- B. Condition assessment analysis and project support.
- C. Estimated useful life guidance.
- D. Development of risk criteria and decision logic.
- E. Rehabilitation and replacement planning.
- F. GIS and asset data support.
- G. Asset management and business process support.
- H. Regulatory reporting and documentation related to water and wastewater infrastructure (WDR/SSMP, risk and resilience, emergency response).

Requests for work not listed above must be contracted under separate agreement.



## Discipline 18: Water/Wastewater Asset Management

### ATTACHMENT B-MASTER SERVICES AGREEMENT RATE SCHEDULE

PRICES VALID THROUGH TERM OF AGREEMENT

STAFF			
	NAME	TITLE	HOURLY RATE
1.	Tom McCormack	Project Manager	\$285
2.	Joseph Nye	Principal-in-Charge	\$398
3.	Eric Scherch	Quality Manager	\$385
4.	Dean Gipson	Regulatory Support Lead	\$398
5.	Mike Flores	Senior Asset Management	\$398
6.	Dan Ellison	Senior Condition Assessment	\$398
7.	Leanne Hammond	Senior Planning Engineer	\$395
8.	Dave Spencer	Linear Asset Management Lead	\$380
9.	Mandira Sudame	Senior Engineer II	\$375
10.	Stephen Beppler	Senior Engineer I	\$350
11.	Badri Badriyha	Senior Engineer	\$300
12.	Al Ribachonek	Condition Assessment III	\$295
13.	Marc Wegner	Condition Assessment III	\$295
14.	Mersedeh Akhoondan	Condition Assessment II	\$240
15.	Steven Pierce	Condition Assessment I	\$180
16.	Lucy Jaramillo	External Condition Assessment Lead	\$210
17.	Alice Wang	Project Engineer II	\$230
18.	Amanda Leopard	Asset Management II	\$235
19.	Kanchan Joshi	Asset Management I	\$185
20.	Yuying Li	Senior GIS Analyst	\$265
21.	Anders Burvall	GIS Analyst II	\$225
22.	Sharon Jacob	GIS Analyst I	\$140
23.	Elisa Rivera	Staff Engineer I	\$155
24.	Carmen Sandoval	Accountant	\$160
25.	Chelsea Feller	Project Coordinator	\$130
26.	Katherine Murray	Document Specialist	\$140

Discipline 18: Water/Wastewater Asset Management (cont'd.)

ATTACHMENT B-MASTER SERVICES AGREEMENT RATE SCHEDULE  
PRICES VALID THROUGH TERM OF AGREEMENT

SUBCONSULTANTS			
	NAME/FIRM	TITLE	HOURLY RATE
1.	N/A	N/A	N/A

EXPENSES			
	DESCRIPTION	COST	% MARKUP
1.	Mileage	\$0.67 per mile, or as permitted by the IRS	5%
2.	Printing - B&W 8.5 x 11	\$0.05 per sheet	5%
3.	Printing - Color 8.5 x 11	\$0.15 per sheet	5%
4.	Mailing	at cost	5%

## Statements of Qualifications Received for Each Discipline

<b>Discipline</b>	<b>Statements Received</b>
Climate Action Planning Services	2
Computer-Aided Design Services	3
Environmental Outreach*	1
Environmental/Storm Water Services	6
Geotechnical Services	10
Horizontal Construction Management and Inspection	17
Landscape Architectural Services	13
Materials Testing	10
Mechanical/Electrical/Plumbing Engineering	6
Policy and Sustainable Materials Management Program Implementation	1
Sewer Condition Assessment	3
Storm Water Asset Management	2
Structural Engineering	2
Surveying	13
Utilities Hydraulic Modeling	3
Utility Locating/Potholing	2
Vertical Construction Management and Inspection	8
Wastewater Engineering	9
Water and Recycled Water Planning	1
Water and Recycled Water Engineering	5
Water/Wastewater Asset Management	1

\*Staff elected not to move forward with an award for the Environmental Outreach discipline at this time, pending further evaluation of project needs.

Selected Firms by Discipline

Exhibit 4

Discipline	Firm Name	Amount	Agency
Climate Action Planning Services	Ascent Environmental, Inc.	\$500,000	City
Climate Action Planning Services	University of San Diego	\$500,000	City
Computer-Aided Design Services	Fusion Engineering and Technology	\$400,000	City
Computer-Aided Design Services	Michael Baker International, Inc.	\$400,000	City
Computer-Aided Design Services	NV5, Inc.	\$400,000	City
Environmental/Storm Water Services	D-Max Engineering, Inc.	\$500,000	City
Environmental/Storm Water Services	Mikhail Ogawa Engineering Inc.	\$600,000	City
Environmental/Storm Water Services	NV5, Inc.	\$500,000	City
Geotechnical Services	Atlas Technical Consultants, LLC	\$500,000	City
Geotechnical Services	ENGEO, Incorporated	\$500,000	City
Geotechnical Services	Ninyo & Moore Geotechnical & Environmental Sciences Consultants	\$500,000	City
Geotechnical Services	Ninyo & Moore Geotechnical & Environmental Sciences Consultants	\$500,000	CMWD
Geotechnical Services	Barnett Quality Control Services, Inc. dba Nova Services, Inc.	\$500,000	City
Geotechnical Services	Tetra Tech, Inc.	\$500,000	City
Geotechnical Services	Twining, Inc.	\$500,000	CMWD
Horizontal Construction Management & Inspection	Acardis, U.S., Inc.	\$800,000	City
Horizontal Construction Management & Inspection	Acardis, U.S., Inc.	\$800,000	CMWD
Horizontal Construction Management & Inspection	CPM Partners, Inc.	\$800,000	City
Horizontal Construction Management & Inspection	CPM Partners, Inc.	\$800,000	CMWD
Horizontal Construction Management & Inspection	Kleinfelder Construction Services, Inc.	\$800,000	City
Horizontal Construction Management & Inspection	Kleinfelder Construction Services, Inc.	\$800,000	CMWD
Horizontal Construction Management & Inspection	Valley CM, Inc.	\$800,000	City
Horizontal Construction Management & Inspection	Valley CM, Inc.	\$800,000	CMWD
Landscape Architectural Services	Moore Iacofano Goltsman, Incorporated	\$750,000	City
Landscape Architectural Services	Schmidt Design Group, Inc.	\$750,000	City
Landscape Architectural Services	SmithGroup, Inc which will do business in California as SmithGroup Architects and Engineers	\$750,000	City
Landscape Architectural Services	SWA Group	\$750,000	City
Materials Testing	Atlas Technical Consultants, LLC	\$600,000	City
Materials Testing	Atlas Technical Consultants, LLC	\$600,000	CMWD
Materials Testing	Ninyo & Moore Geotechnical & Environmental Sciences Consultants	\$600,000	City
Materials Testing	Ninyo & Moore Geotechnical & Environmental Sciences Consultants	\$600,000	CMWD
Materials Testing	NV5, Inc.	\$600,000	City
Materials Testing	NV5, Inc.	\$600,000	CMWD
Materials Testing	Verdantas, Inc.	\$600,000	City
Materials Testing	Verdantas, Inc.	\$600,000	CMWD
Mechanical/Electrical/Plumbing Engineering	IDS Group, Inc.	\$200,000	City

### Selected Firms by Discipline

Discipline	Firm Name	Amount	Agency
Mechanical/Electrical/Plumbing Engineering	BSE Engineering, Inc.	\$200,000	City
Mechanical/Electrical/Plumbing Engineering	Shadpour Consulting Engineers, LP	\$200,000	City
Policy and Sustainable Materials Management Program Implementation	Stearns, Conrad and Schmidt, Consulting Engineers, Inc.	\$500,000	City
Sewer Condition Assessment	Downstream Services, Inc.	\$400,000	City
Sewer Condition Assessment	National Plant Services, Inc.	\$400,000	City
Storm Water Asset Management	Glenn A. Rick Engineering and Development	\$400,000	City
Structural Engineering	Dokken Engineering	\$500,000	City
Structural Engineering	IDS Group, Inc.	\$700,000	City
Surveying	Right-of-Way Engineering Services, Inc.	\$500,000	City
Surveying	Right-of-Way Engineering Services, Inc.	\$500,000	CMWD
Surveying	O'Day Consultants, Inc.	\$500,000	City
Surveying	O'Day Consultants, Inc.	\$500,000	CMWD
Surveying	NV5, Inc.	\$500,000	City
Utilities Hydraulic Modeling	Burns & McDonnell Western Enterprises, Inc.	\$500,000	City
Utilities Hydraulic Modeling	Burns & McDonnell Western Enterprises, Inc.	\$500,000	CMWD
Utilities Hydraulic Modeling	HDR Engineering, Inc.	\$500,000	City
Utilities Hydraulic Modeling	Kennedy/Jenks Consultants, Inc.	\$500,000	City
Utilities Hydraulic Modeling	Kennedy/Jenks Consultants, Inc.	\$500,000	CMWD
Utility Locating/Potholing	AirX Utility Surveyors, Inc.	\$400,000	City
Utility Locating/Potholing	AirX Utility Surveyors, Inc.	\$400,000	CMWD
Utility Locating/Potholing	GUIDA	\$400,000	City
Utility Locating/Potholing	GUIDA	\$400,000	CMWD
Vertical Construction Management & Inspection	CPM Partners, Inc.	\$800,000	City
Vertical Construction Management & Inspection	CPM Partners, Inc.	\$800,000	CMWD
Vertical Construction Management & Inspection	Schneider CM, Inc.	\$800,000	City
Vertical Construction Management & Inspection	Schneider CM, Inc.	\$800,000	CMWD
Vertical Construction Management & Inspection	New City Consulting, Inc.	\$800,000	City
Vertical Construction Management & Inspection	New City Consulting, Inc.	\$800,000	CMWD
Vertical Construction Management & Inspection	WSP USA, Inc.	\$800,000	City
Vertical Construction Management & Inspection	WSP USA, Inc.	\$800,000	CMWD
Wastewater Engineering	Carollo Engineers, Inc.	\$500,000	City
Wastewater Engineering	Dokken Engineering	\$500,000	City
Wastewater Engineering	Dudek	\$500,000	City
Wastewater Engineering	Michael K. Nunley & Associates, Inc.	\$500,000	City
Water and Recycled Water Planning	Eagle Aerial Photography, Inc.	\$500,000	CMWD
Water and Recycled Water Engineering	Carollo Engineers, Inc.	\$500,000	CMWD
Water and Recycled Water Engineering	Dudek	\$500,000	CMWD
Water and Recycled Water Engineering	Water Systems Consulting, Inc.	\$500,000	CMWD
Water/Wastewater Asset Management	HDR Engineering, Inc.	\$500,000	City
Water/Wastewater Asset Management	HDR Engineering, Inc.	\$500,000	CMWD